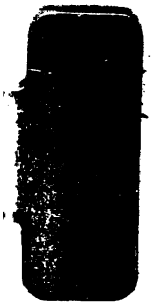

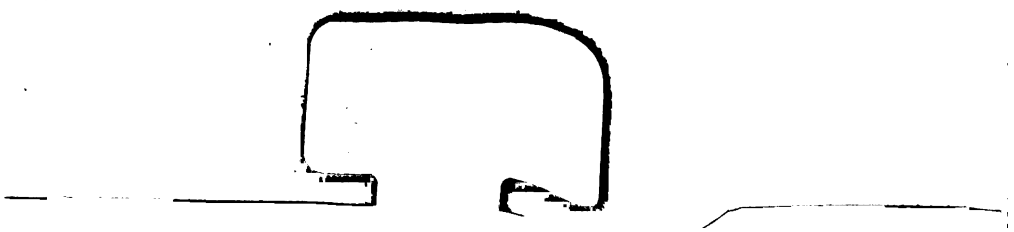

PROCEEDINGS

OF THE

NINTH ANNUAL MEETING

OF THE

MAINE STATE BAR ASSOCIATION

HELD AT

AUBURN, MAINE, FEBRUARY 14, 1900.

AUGUSTA:
PRESS OF CHARLES E. NASH.
1900.

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PRESS OF CHARLES E. NASH.
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Office of Secretary of

Maine State Bar Association.

AUGUSTA, FEBRUARY 6, 1900.

DEAR SIR:

The ninth annual meeting of the MAINE STATE BAR ASSOCIATION will be held at the Municipal Court Room, Auburn, Maine, on Wednesday, February 14, 1900, at 2 o'clock, P. M.

The order of business will be as follows:

1. *Report of Secretary and Treasurer.*
2. *Reports of Committees.*
3. *Election of Officers.*
4. *Miscellaneous business.*

It has been deemed best this year to omit the annual dinner and have simply a business session.

Per Order.

LESLIE C. CORNISH,

Secretary.

Maine State Bar Association.

NINTH ANNUAL MEETING.

AUBURN, MAINE, February 14, 1900.

In accordance with the foregoing call for the annual meeting which was duly sent to each member of the Association in accordance with the by-laws, the MAINE STATE BAR ASSOCIATION met at the Municipal Court Room, Auburn, Maine, on Wednesday, February 14, 1900, at 2 o'clock, P. M., and was called to order by the President, Hon. Wallace H. White.

The records of the last meeting were read and approved.

The treasurer submitted his annual report which was as follows:

TREASURER'S REPORT.

AUGUSTA, MAINE, February 14, 1900.

LESLIE C. CORNISH, Treasurer, in account with the MAINE STATE BAR ASSOCIATION for the year 1899-1900.

	DR.
To cash balance from preceding year,	$7 32
" received for dues during year,	256 00
" " " 39 dinner tickets at $3 each,	117 00
	$380 32

Cr.

By cash paid annual dinner,	$120 12
By cash paid for stamps, wrappers and postals during year,	25 00
By cash paid salary Secretary and Treasurer,	100 00
" " C. E. Nash for printing,	81 60
" " on hand to balance,	53 60
	$380 32

The president appointed Mr. F. E. Timberlake of Phillips as auditor to examine the treasurer's report, and Mr. Timberlake subsequently reported that he had attended to that duty, had examined the account and vouchers and found the payments properly cast and vouched.

On motion of Mr. Timberlake the report of the treasurer was accepted and ordered to be placed on file.

Mr. W. S. Choate of Augusta, from the special committee appointed at the annual meeting February 8, 1899, to consider certain matters embraced in the address of President Littlefield, presented the report of that committee.

REPORT OF SPECIAL COMMITTEE ON CHANGE OF LAW TERMS.

FEBRUARY 14, 1900.

To the Maine State Bar Association:

The undersigned appointed a committee at the annual meeting of the Association, February 8th, 1899, "to draft a bill along the line of the President's address," and submit the same to the members of the profession and report at the next meeting of the Association, have attended to that duty and submit herewith the draft of a bill making changes as to the terms of the Law Court.

Your committee have not drawn a bill relating to *nisi prius* practice as yet, but will do so if desired by the Association.

The changes in the dates of holding the terms of the Law Court will require changes in *nisi prius* terms in several counties, and a schedule of such changes is herewith reported.

Very respectfully submitted,

CHARLES F. LIBBY,
H. M. HEATH, } Committee.
W. S. CHOATE,

Chapter 77 of the Revised Statutes of Maine, to be amended as follows:

Section 20 is amended by striking out in the second line thereof the words, "next law court to be held in the district where the cause is pending," and insert in place thereof the words, "next term of the law court," so that said section as amended shall read as follows:

Section 20. From all final decrees of such justice, an appeal lies to the next term of the law court. Said appeal shall be claimed by an entry on the docket of the court from which the appeal is taken, within ten days after such decree is signed, entered and filed, and notice thereof has been given by such clerk to the parties or their counsel. The appellant shall enter such appeal, and furnish written or printed copies of the case on the first day of said law term, and for good cause shown, the law court may enlarge the time for furnishing such copies. Such appeals shall be heard at the term to which they are taken, unless otherwise agreed, or the law court shall for good cause order a further time for the hearing thereof, and shall on such appeal, affirm, reverse, or modify the decree of the court below, or remand the cause for further proceedings, as it deems proper. All cases in which appeals or exceptions are taken from a final decree, shall remain on the docket of the court below, marked "law," and decree shall be entered therein by a single justice, in accordance with the certificate and opinion of the law court.

Section 23 is amended as follows: In second and third lines strike out the words "law court held within the district in which it is pending," and insert in place thereof the words, "term of the law court," so that said section as amended shall read as follows:

Section 23. Upon a hearing in any cause in equity, the justice hearing the same may report the cause to the next term of the law court, if he is of opinion that any question of law is involved of sufficient importance or doubt to justify the same, and the parties agree thereto. The cause shall be entered and copies furnished by the complainant, and shall be heard and decided by said law court in like manner and with like results as is herein provided in case of appeals.

Section 39 by inserting in place of the present Section 39, which is as follows:

"Section 39. For the purpose of the law court, the state is divided into three districts, the Western, Middle and Eastern. The first is composed of the counties of Franklin, Oxford, Androscoggin, York and Cumberland; and an annual session of the court shall be held therein, at Portland on the third Tuesday of July. The second, of Somerset, Knox, Lincoln, Sagadahoc and Kennebec; and an annual session of the court shall be held therein, at Augusta, on the fourth Tuesday of May. The third of Aroostook, Washington, Piscataquis, Hancock, Waldo and Penobscot; and an annual session of the court shall be held therein, at Bangor, on the third Tuesday of June. A meeting of all the justices shall be annually held at Augusta during the law term; and all undecided questions of law and equity previously submitted, shall then be decided;"

The following:

Section 39. For the purposes of the law court the state shall constitute one district. The sessions of the court as a law court shall be holden at Augusta on the first Tuesday of January, at Bangor on the fourth Tues-

day of May and at Portland on the second Tuesday of June in each year. A meeting of all the justices shall be held annually at Augusta during the law term and all undecided questions of law and equity previously submitted shall then be decided.

Section 40 repealed; said section is as follows:

"Section 40. By consent of parties, any action or other matter which properly comes before the law court, may be entered and heard in either judicial district, and is in order after the regular business of the district is disposed of;" and the following enacted in place thereof;

Section 40. At least ten days before the sitting of each term of the law court, the clerks of court in the several counties of the State, shall certify to the clerk of such term, all cases pending in the supreme judicial and superior courts in their respective counties marked law, and all other matters of which the law court has jurisdiction, except cases in which exceptions or appeals in proceedings in equity have been adjudged frivolous and intended for delay; and they shall be entered on the docket of the law court, and shall, together with all other matters therein pending, be in order for argument, determination or continuance in the alphabetical order of counties. Provided that causes on the law docket from the counties of Androscoggin, Cumberland, Franklin, Knox, Lincoln, Oxford, Sagadahoc and York shall not be in order at the term holden in Bangor, except by consent of both parties.

Section 41 repealed; said section is as follows:

"Section 41. The clerks of the counties of Cumberland, Kennebec and Penobscot, are clerks of the districts including those counties. A docket for the district shall be kept, on which all cases pending on the dockets of the

counties within it and marked 'Law,' and all other cases of which the law court has jurisdiction, shall be entered and heard in the order of the counties as above named," and the following entered in place thereof:

Section 41. The clerks of court in the counties of Kennebec, Penobscot and Cumberland shall be the clerks of the terms of the law court held in their respective counties, and each shall, upon the adjournment of a term thereof holden in his county, transmit to the clerk of the next term all dockets together with all exhibits and documents in his custody relating to pending causes. The dockets of the law court shall be made from time to time and kept as the court may direct.

The Chief Justice, or in his absence the senior justice present, may allow the several clerks for attendance, not exceeding two and one-half dollars per day, and a reasonable compensation for making dockets, which shall be paid by the State, but no entry fee shall be charged.

This act shall take effect September first, 1901; and all actions then pending before the law court in the several districts, as now constituted, shall be transferred to the docket of said court as herein established.

Section 42 of Chapter 77 is amended in the eleventh and sixteenth lines by striking out in each the word, "district," and inserting in place thereof the words, "law court," so that said section as amended shall read as follows:

Section 42. The following cases only come before the court as a court of law: Cases in which there are motions for new trials upon evidence reported by the justice; questions of law arising on reports of cases; bills of exceptions; agreed statements of facts; cases, civil or criminal,

presenting a question of law; all questions arising in equity cases; motions to dissolve injunctions issued after notice and hearing, or continued after a hearing; questions arising on writs of habeas corpus, mandamus, and certiorari, when the facts are agreed on, or are ascertained and reported by a justice. They shall be marked "law" on the docket of the county where they are pending, and there continued until their determination is certified by the clerk of the law court to the clerk of the county, and the court shall, immediately after the decision of the question submitted to it, make such order, direction, judgment, or decree, as is fit and proper for the disposal of the case, and cause a rescript in all civil suits, briefly stating the points therein decided, to be filed therein, which rescript shall be certified by the clerk of the law court to the clerk of the county where the action is pending, and to the reporter of decisions; and if no further opinion is written out, the reporter shall publish in the next volume of reports thereafter issued, the case, together with such rescript, if the reporter deems the same of sufficient importance for publication.

Section 43 of Chapter 77 is amended by striking out in the third line the words "session for the district," and insert in place thereof the words, "law term," also in the fourth line by striking out the word "district," and inserting in place thereof the words, "law court," so that said section as amended shall read as follows:

Section 43. When parties enter an agreement on the docket of a county under cases named in the preceding section, and transmit arguments in writing to the court before or at its next law term, such cases need not be entered on the docket of the law court; and the court may

pronounce judgment in any county, and cause it to be certified and entered in the county where it is pending, as of the preceding term.

Section 44 of Chapter 77 is amended by striking out in second line thereof the word, "district," and inserting in place thereof the words, "law court," so that said section as amended shall read as follows:

Section 44. When cases mentioned in section forty-two are not entered on the docket of the law court within the first two days of the next law term, the opposite party may, at that term, enter a complaint, briefly setting forth the facts, and the court, if satisfied of the truth thereof, may render judgment in his favor, as in other cases decided by it; and if the case is on exceptions, treble costs shall be awarded from the time when they were filed.

Section 75 which is as follows:

"Section 75. Exceptions may be alleged as in the supreme judicial court and entered, heard and determined at the law term held in the district, provided, that when the next law term happens to be held in either of the other districts, the justice of the superior court may, on motion of the party not excepting, certify the exceptions to said next law term, if, in his opinion, they are alleged mainly for delay, but the party so moving shall be deemed to waive his right to be heard in opposition to said exceptions, which shall be entered and determined at said next law term without argument by said party, and upon the oral or written argument of the party excepting. Cases certified upon agreed statement of facts, and reports and motions for new trials, shall be entered, heard and determined at the next law term in the district, but any case for the law court may, by agreement of parties, be entered

at the next law term held in either district. And all exceptions arising in cases within the exclusive jurisdiction of either of said superior courts may be certified at once by the justice thereof to the chief justice of the supreme judicial court, and shall, when so certified, be argued in writing on both sides within thirty days thereafter, unless the justice of such superior court for good cause, enlarges the time, and exceptions so certified shall be considered and determined by the justices of the supreme judicial court, as soon as may be. Decisions of the law court on all exceptions and questions from said superior courts shall be certified to the clerk of either of said superior courts with the same effect as in cases originating in the supreme judicial court in the county ;" is amended to read as follows:

Section 75. Exceptions may be alleged as in the Supreme Judicial court, and shall, together with all cases upon agreed statement of facts, upon report and motions for new trials, be certified as provided in section forty of this chapter. And all exceptions arising in cases within the exclusive jurisdiction of either of said superior courts, may be certified at once by the justice thereof to the chief justice of the supreme judicial court, and shall, when so certified, be argued in writing on both sides within thirty days thereafter, unless the justice of such superior court, for good cause, enlarges the time, and exceptions so certified shall be considered and determined by the justices of the supreme judicial court, as soon as may be. Decisions of the law court on all exceptions and questions from said superior courts, shall be certified to the clerk of either of said superior courts with the same effect as in cases originating in the supreme judicial court in the county.

Section 77 which is as follows:

"Section 77. The supreme judicial court, sitting as a court of law in either district, has the same jurisdiction of all questions of law, motions for new trials, and questions arising on reports or agreed statements of facts originating in the superior court within such district, as if they had originated in the supreme judicial court therein; and said law court sitting in any district has the same jurisdiction of all questions and motions certified thereto from the superior court within either district as hereinbefore provided. And all provisions of law and rules of the supreme judicial court relative to the transfer of actions and other matters from the supreme judicial court for said county, or from its docket to the docket of said law court, and all provisions of law and rules regulating proceedings in such cases, and the effects of such proceedings, apply to the transfer of actions from either of the superior courts or the dockets thereof to said law court, and to the proceedings in such cases, and the effect thereof, except so far as they are inconsistent with the foregoing provisions;" is amended to read as follows:

Section 77. The supreme judicial court, sitting as a court of law, has the same jurisdiction of all questions of law, motions for new trials, and questions arising on reports or ageed statements of facts originating in either superior court, as if they had originated in the supreme judicial court; and said law court has the same jurisdiction of all questions and motions certified thereto from either superior court as hereinbefore provided. And all provisions of law and rules of the supreme judicial court relative to the transfer of actions and other matters from the supreme judicial court for said county, or from its docket to the docket of said law court, and all provisions

of law and rules regulating proceedings in such cases, and the effects of such proceedings apply to the transfer of actions from either of the superior courts or the dockets thereof to said law court, and to the proceedings in such cases and the effect thereof, except so far as they are inconsistent with the foregoing provisions.

Section 82 is amended by striking out in the third line thereof the words, "for the district," so that said section as amended shall read as follows:

Section 82. All exceptions or questions arising in any way during the trial of criminal cases in either of said superior courts, shall be transferred to the law docket of the supreme judicial court, and have day therein; and if said exceptions are sustained, or a new trial is ordered, the cause shall be remanded to such superior court for trial. Motions for a new trial in criminal cases tried in either of the superior courts, shall be heard and finally determined by the justice thereof.

Changes necessary in *nisi prius* terms:

There being no term of the Supreme Judicial Court in November, all the Justices are at liberty on the first Tuesday of December.

There are four terms of the Supreme Judicial Court in December:

Aroostook 1st Tuesday, remain as now, 1st Tuesday.
Knox 2nd Tuesday, change to 1st Tuesday.
Sagadahoc 3rd Tuesday, change to 1st Tuesday.
Somerset 3rd Tuesday, change to 1st Tuesday.

This would give three weeks of court before Christmas and four weeks before the first Tuesday of January, so that in all probability all the Justices would be at liberty the first Tuesday of January.

There are seven terms of the supreme Judicial Court in January:

Androscoggin 3rd Tuesday, remain as now, 3rd Tuesday.

Cumberland 2nd Tuesday, change to 3rd Tuesday.

Hancock 3rd Tuesday, remain as now, 3rd Tuesday.

Penobscot (Civil) 1st Tuesday.

Waldo 1st Tuesday.

Washington 2nd Tuesday, change to 3rd Tuesday.

York 1st Tuesday.

These changes would leave five Justices to sit in the Law Court at Augusta for two weeks.

Should it be thought necessary to have six Justices in the Law Court, one of the terms holden on the first Tuesday, could be changed to the 3rd Tuesday; there would then be the usual number of Justices, six, to sit in the Law Court.

The Justices who hold the *nisi prius* terms on the 1st Tuesday of January with the Justice who held no *nisi prius* term in that month would be at liberty to take the two terms on first Tuesday and the term on the second Tuesday of February.

The term on the last Tuesday of February and the three March terms would come at times when at least five of the Justices would be at liberty.

The most feasible change seems to be to make Penobscot January Term (Civil), the 3rd Tuesday of January, and Penobscot criminal term the 3rd Tuesday of February.

The terms would then be as follows for December, January and February:

Aroostook,	1st Tuesday, December.
Knox,	1st Tuesday, December.

Sagadahoc,	1st Tuesday, December.
Somerset,	1st Tuesday, December.
Law Term,	1st Tuesday, January.
Androscoggin,	3rd Tuesday, January.
Cumberland,	3rd Tuesday, January.
Hancock,	3rd Tuesday, January.
Penobscot (civil),	3rd Tuesday, January.
Waldo,	1st Tuesday, January.
Washington,	3rd Tuesday, January.
York,	1st Tuesday, January.
Franklin,	1st Tuesday, February.
Oxford,	2nd Tuesday, February.
Penobscot (criminal),	3rd Tuesday, February.
Piscataquis,	last Tuesday, February.

On motion of Mr. Spear it was, Voted: That the report be accepted and printed, and the secretary be requested to forward a copy of the same to all members of the bar throughout the state.

Remarks were made upon the subject matter of the report by Messrs. H. W. Oakes of Auburn, F. E. Timberlake of Phillips and C. F. Libby of Portland. On motion of Mr. Libby, it was, Voted: That the report be referred to a special committee consisting of one from each county, whose duty it shall be to consider the same, ascertain as far as possible the sentiment of the members of the various bars, confer with the court and report at an adjourned meeting of this Association to be held in Portland, Maine, on Monday, July 16, 1900.

The President subsequently announced the following as members of that committee:

Androscoggin County,	John A. Morrill, Auburn.
Aroostook,	Geo. H. Smith, Presque Isle.

Cumberland,	Charles F. Libby, Portland, [Chairman.
Franklin,	F. E. Timberlake, Phillips.
Hancock,	O. F. Fellows, Bucksport.
Kennebec,	W. S. Choate, Augusta.
Knox,	A. S. Littlefield, Rockland.
Lincoln,	O D. Castner, Waldoboro.
Oxford,	James S. Wright, South Paris.
Penobscot,	F. H. Appleton, Bangor.
Piscataquis,	Henry Hudson, Guilford.
Sagadahoc,	F. E. Southard, Bath.
Somerset,	E. N. Merrill, Skowhegan.
Waldo,	R. F. Dunton, Belfast.
Washington,	F. I Campbell, Cherryfield.
York,	Geo. F. Haley, Biddeford.

Mr. Charles F. Libby of Portland presented resolutions passed at the last meeting of the American Bar Association relating to the observance of John Marshall day, Feb. 4, 1901, that being the 100th anniversary of his accession to the Bench of the Supreme Court of the United States, and asking the various bar organizations and associations to make a proper observance of the day.

Voted: That a committee of three be appointed by the chair to arrange for a fitting observance of the day in this state by this Association; and the chair subsequently appointed Charles F. Libby of Portland, F. M. Drew of Lewiston and Barrett Potter of Brunswick, as members of that committee.

Voted: That the annual meeting for 1901 be called for Monday, February 4th, 1901, so that it may be held on John Marshall day.

On motion of Mr. Harvey D. Eaton of Waterville, it

was Voted: That the special committee consisting of Charles F. Libby, H. M. Heath and W. S. Choate, appointed at the last annual meeting to consider the question of reforms in civil procedure, suggested by President Littlefield's address, be continued, and that three additional members be appointed by the chair to act with them. The chair subsequently appointed Harvey D. Eaton of Waterville, A. M. Goddard of Augusta and David E. Moulton of Portland.

On motion of Mr. George C. Wing of Auburn, it was, Voted: That a committee of three be appointed to consider the advisability of a revision of the statutes and to take such steps looking toward necessary legislation therefor as they may deem expedient.

The chair subsequently appointed George C. Wing of Auburn, F. C. Payson of Portland and Leslie C. Cornish of Augusta, as members of that committee.

Mr. Josiah Crosby of Dexter, presented the following proposed act in relation to the salary of the members of the Supreme Court, for the consideration of the members of the profession:

STATE OF MAINE.

In the year of our Lord one thousand nine hundred and one.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

An Act relating to the salaries of the Judges of the Supreme Judicial Court.

Sec. 1. The salaries of the Judges of the Supreme Judicial Court shall be as follows: Whenever a Judge of this Court after a service of one term of seven years and reappointment for another term, resigns or shall not hold a third term of seven years, one-half of his usual

salary shall be paid to him during his natural life, and to his widow, if any, after his death, during her natural life.

If no widow, to his children, if any, during their minority in equal shares.

Sec. 2. This Act shall take effect when approved.

Voted: That when we adjourn, it be to meet at Portland, July 16, 1900, at 3 o'clock, P. M., to consider matters of unfinished business, and especially the report of the commitee appointed to consider changes in the terms of the Law Court.

On motion of Mr. W. S. Choate, Messrs. W. S. Choate of Augusta, N. W. Harris of Auburn and Harvey D. Eaton of Waterville were appointed a committe to nominate a list of officers for the ensuing year.

Subsequently Mr. Choate for the committee, presented the following list of officers, all of whom were unanimouly elected by ballot:

OFFICERS FOR 1900-1901.

President.

Wallace H. White, - - - -	Lewiston.

Vice-Presidents.

Joseph W. Symonds, - - -	Portland.
Jos. C. Holman, - - - -	Farmington.
A. M. Spear, - - - - -	Gardiner.

Secretary and Treasurer.

Leslie C. Cornish, - - - -	Augusta.

Executive Committee.

Wm. T. Haines, - - - -	Waterville.
F. E. Timberlake - - - -	Phillips.
Geo. M. Seiders, - - - -	Portland.
A. S. Kimball, - - - - -	Norway.
Geo. C. Wing, - - - - -	Auburn.

Committee on Membership.

H. W. Oakes, - - - - -	Auburn.
Charles F. Daggett, - - - -	Presque Isle.
Albert S. Woodman, - - - -	Portland.
Elmer E. Richards, - - - -	Farmington.
Arno W. King, - - - - -	Ellsworth.
D. N. Mortland, - - - -	Rockland.
Wm. H. Hilton, - - - -	Damariscotta.
S. S. Brown, - - - - -	Waterville.
J. S. Wright, - - - - -	Paris.
Hugh R. Chaplin, - - - -	Bangor.
W. E. Parsons, - - - -	Foxcroft.
F. E. Southard, - - - -	Bath.
Forrest Goodwin, - - - -	Skowhegan.
Wm. P. Thompson, - - - -	Belfast.
L. H. Newcomb, - - - -	Eastport.
Horace H. Burbank, - - - -	Saco.

Committee on Law Reform.

Charles F. Libby, - - - -	Portland.
John A. Morrill, - - - -	Auburn.
F. H. Appleton, - - - -	Bangor.
Leroy T. Carleton, - - - -	Winthrop.
A. S. Littlefield, - - - -	Rockland.

Committee on Legal History.

Josiah H. Drummond, - - -	Portland.
Joseph Williamson, - - - -	Belfast.
J. F. Sprague, - - - - - -	Monson.
F. M. Drew, - - - - - -	Lewiston.
Charles W. Larrabee, - - -	Bath.

Committee on Legal Education.

J. W. Mitchell, - - - - - -	Auburn.
Louis C. Stearns, - - - -	Caribou.

F. C. Payson, - - - - -	Portland.
S. Clifford Belcher, - - - -	Farmington.
O. F. Fellows, - - - - -	Bucksport.
C. F. Johnson, - - - - -	Waterville.
Jos. E. Moore, - - - - -	Thomaston.
G. B. Kenniston, - - - -	Boothbay [Harbor.
George A. Wilson, - - - -	South Paris.
E. C. Ryder, - - - - -	Bangor.
Henry Hudson, - - - - -	Guilford.
Jos. M. Trott, - - - - -	Bath.
George W. Gower, - - - -	Skowhegan.
R. F. Dunton, - - - - -	Belfast.
C. B. Donworth, - - - -	Machias.
Hampden Fairfield, - - - -	Saco.

Voted to adjourn.

Adjourned.

A true record. Attest:

LESLIE C. CORNISH,
Secretary.

NOTICE OF MEETING.

Office of Secretary and Treasurer,
Maine State Bar Association.

Augusta, Maine, July 5, 1900.

Dear Sir:

An adjourned meeting of the Maine State Bar Association will be held at the Supreme Court Room, Court House, Portland, Me., on Monday, July 16th, 1900, at 3 o'clock, P. M., to act upon the Report of the Special

Committee on Change of Law Terms, a copy of which report has already been sent to you.

Yours respectfully,

LESLIE C. CORNISH,

Secretary.

ADJOURNED MEETING.

CITY COUNCIL CHAMBER,
Portland, Maine, July 16, 1900.
3 o'clock, P. M.

Pursuant to adjournment, a meeting of the Maine State Bar Association was held at the above time and place.

In the absence of the president, Hon. Wallace H. White, vice-president Joseph W. Symonds presided.

The records of the last meeting were read and approved.

Hon. Sewall C. Strout, Justice of the Supreme Judicial Court, was present and made some suggestions in regard to the proposed change of law terms.

The report of the special committee of sixteen appointed at the last meeting of the Association was called for, and those members of the committee who were present, stated what the sentiment was in their respective localities regarding the proposed change of law terms.

Voted: That it is the sense of this Association that the Revised Statutes should be amended according to the original report of the special committee having this matter in charge, as modified along the lines suggested by Justice Albert R. Savage, in the following table:

	August.	September.	October.	December.	January.	February.	March.	April.	May.
Androscoggin.		3			3			3	
Aroostook.		3		1				3	
Cumberland.			2		2			2	
Franklin.		4				1			*3
Hancock.			2		3			2	
Kennebec.			3				1		
Knox.		3		*4			2		
Lincoln.			4					4	
Oxford.			2			2			1
Penobscot-Civil.			1		1			1	
Penobscot-Criminal.	2					1			
Piscataquis.		3				last			
Sagadahoc.	3			*4				1	
Somerset.		3		*4			3		
Waldo.		3			1			3	
Washington.			2		2			4	
York.		3			1				*1

Law Court, Augusta, 2 December, for the whole State.
Law Court, Bangor, 1 June, for Eastern half of State.
Law Court, Portland, 4 June, for Western half of State.
*Indicates change.

Voted: That a committee of five be appointed to draft a bill in accordance with the preceding vote, and present the same at the next annual meeting of this Association, to be held on February 4th, 1901. The following were appointed as members of that committee:

Charles F. Libby, Portland.
W. S. Choate, Augusta.
John A. Morrill, Auburn.
F. E. Timberlake, Phillips.
M. Laughlin, Bangor.

The special committee appointed at the last meeting of the Association to arrange for a proper observance of John Marshall day, reported that Hon. Wm. L. Putnam, Judge of the United States Circuit Court, had accepted an invitation to deliver an address before this Association on that day.

Voted to adjourn.

Adjourned.

A true record. Attest:

LESLIE C. CORNISH,

Secretary.

AMENDED BY-LAWS
OF THE
MAINE STATE BAR ASSOCIATION.

ARTICLE 1. MEMBERSHIP.

Members of the Bar in this State, shall be eligible to membership and shall be elected at any legal meeting, upon the nomination of the committee on membership.

ARTICLE 2. OFFICERS.

The officers of this association shall be a president, three vice-presidents, an executive committee, a committee on law reform, a committee on legal education and admission to the bar, a committee on legal history, a secretary and a treasurer. All these officers shall be elected by ballot at the annual meeting and shall hold office until others are elected and qualified in their stead.

Other standing committees than those above specified may be provided by the association from time to time as may be found expedient.

ARTICLE 3. PRESIDENT.

The president, or in his absence, one of the vice-presidents, shall preside at all meetings of the association. The president shall be, *ex-officio*, a member of the executive committee.

ARTICLE 4. EXECUTIVE COMMITTEE.

The executive committee shall consist of four members beside the president. They shall have charge of the affairs of the association, make arrangements for meetings, order the disbursement of the funds of the association, audit its accounts, and have such other powers as

may be conferred on them by vote at any meeting of the association.

ARTICLE 5. COMMITTEE ON LAW REFORM.

The committee on Law Reform shall consist of five members. It shall be the duty of this committee to consider and report to the association such amendments of the law as should in their opinion be adopted; also to scrutinize proposed changes of the law, and when necessary, report upon the same; also to observe the practical working of the judicial system of the State and recommend by written or printed reports, from time to time, any changes therein which experience or observation may suggest.

ARTICLE 6. COMMITTEE ON LEGAL EDUCATION.

The committee on legal education shall consist of one member from each county represented in the association. Its duty shall be to prepare and report a system of legal education and for examination and admission to the practice of the profession in this State, and report from time to time such changes in the system of examination and admission as may be deemed advisable.

ARTICLE 7. COMMITTEE ON MEMBERSHIP.

The committee on membership shall consist of one member from each county represented in the association. All applications for membership shall be made to the member from the county where the applicant resides, if any, otherwise to any member of the committee. Applicants shall be nominated for membership by the concurrence of three members of this committee.

ARTICLE 8. COMMITTEE ON LEGAL HISTORY.

The committee on Legal History shall consist of so

many members as the association shall, from year to year, appoint.

Its duty shall be to provide for the preservation in the archives of the Society, of the record of such facts relating to the history of the profession as may be of interest, and of suitable written or printed memorials of the lives and characters of distinguished members of the profession.

ARTICLE 9. SECRETARY.

The secretary shall keep the records of the association, have charge of its archives, and discharge such other duties as the association may require.

ARTICLE 10. TREASURER.

The treasurer shall collect and receive the dues of the association, keep and by order of the executive committee disburse its funds, and discharge such other duties as may pertain to his office. Any person may fill the office of both secretary and treasurer if elected thereto. A vacancy occurring in either of these offices may be filled by appointment of the executive committee.

ARTICLE 11. MEETINGS.

The annual meeting of the association shall be held on the second Wednesday of February, at such place in the city of Augusta in the years in which the legislature shall be in session, and in the alternate years at such city in the State and at such hour, as the executive committee may determine. Special meetings may be called by the president, on application in writing of five members, ten days' notice of which by mail shall be given to each member by the secretary, stating the object of the meeting. Fifteen members shall constitute a quorum at any meeting.

Article 12. Annual Dues.

The annual dues shall be one dollar for each member, payable to the treasurer on or before the first day of June in each year.

Failure to pay the annual dues for two years in succession shall terminate the membership of the person in default.

Article 13. Expulsion of Members.

Any member may be expelled for misconduct, professional or otherwise, by a two-thirds vote of the members present at any meeting after proper notice of the charges; and all the interest of any member in the property of the association upon the termination of his membership, by expulsion, resignation or otherwise, shall thereupon vest absolutely in the association.

Article 14. Amendments.

These by-laws may be amended only by a two-thirds vote of the members present at an annual meeting of the association.

OFFICERS SINCE ORGANIZATION:

Presidents:

Charles F. Libby, Portland, 1891 to 1896.
Herbert M. Heath, Augusta, 1896 to 1897.
Franklin A. Wilson, Bangor, 1897 to 1898.
Charles E. Littlefield, Rockland, 1898 to 1899.
Wallace H. White, Lewiston, 1899 to

Secretary and Treasurer.

Leslie C. Cornish, 1891 to

MEMBERS
OF THE
MAINE STATE BAR ASSOCIATION.
1899-1900.

Androscoggin County.

Tascus Atwood,	- - -	Auburn.
W. W. Bolster,	- - -	Auburn.
D. J. Callahan,	- - -	Lewiston.
Seth M. Carter,	- - -	Auburn.
J. G. Chabot,	- - -	Lewiston.
Franklin M. Drew,	- - -	Lewiston.
Willard F. Estey,	- - -	Lewiston.
Nathan W. Harris,	- - -	Auburn.
P. H. Kelleher,	- - -	Auburn.
Rogers P. Kelley,	- - -	Auburn.
Jesse M. Libby,	- - -	Mechanic [Falls.
M. L. Lizotte,	- - -	Lewiston.
F. E. Ludden,	- - -	Auburn.
Harry Manser,	- - -	Lewiston.
J. H. Maxwell,	- - -	Livermore [Falls.
George E. McCann,	- - -	Auburn.
J. W. Mitchell,	- - -	Auburn.
John A. Morrill,	- - -	Auburn.
Wm. H. Newell,	- - -	Lewiston.
Henry W. Oakes,	- - -	Auburn.
John L. Reade,	- - -	Lewiston.
Herbert C. Royal,	- - -	Auburn.
Fred N. Saunders,	- - -	Lewiston.

W. B. Skelton, - - -	Lewiston.
A. E. Verrill, - - - -	Auburn.
Wallace H. White, - - -	Lewiston.
George C. Wing, - - -	Auburn.

Aroostook County.

James Archibald, - - -	Houlton.
Walter Cary, - - - -	Houlton.
Charles F. Daggett, - - -	Presque Isle.
F. G. Dunn, - - - -	Ashland.
Bertram L. Fletcher, - -	Caribou.
Willis B. Hall, - - -	Caribou.
Ira G. Hersey, - - -	Houlton.
E. A. Holmes, - - -	Caribou.
Wallace R. Lumbert, - -	Caribou.
Frederick A. Powers, - -	Houlton.
Llewellyn Powers, - - -	Houlton.
Beecher Putnam, - - -	Houlton.
H. W. Safford, - - -	Mars Hill.
R. W. Shaw, - - - -	Houlton.
Vinal B. Wilson, - - -	Houlton.

Cumberland County.

Arthur F. Belcher, - - -	Portland.
Geo. E. Bird, - - - -	Portland.
Albert W. Bradbury, - -	Portland.
Wilford G. Chapman, - -	Portland.
Frederick V. Chase, - - -	Portland.
Albro E. Chase, - - -	Portland.
Wm. Henry Clifford, - -	Portland.
C. E. Clifford, - - -	W. Falmouth.
Charles S. Cook, - - -	Portland.
Liberty B. Dennett, - -	Portland.

James L. Doolittle, - - -	Brunswick.
Morrill N. Drew, - - -	Portland.
Josiah H. Drummond, - -	Portland.
Josiah H. Drummond, Jr., -	Portland.
Isaac W. Dyer, - - -	Portland.
John H. Fogg, - - -	Portland.
James C. Fox, - - -	Portland.
M. P. Frank, - - - -	Portland.
Eben W. Freeman, - - -	Portland.
Clarence Hale, - - -	Portland.
C. A. Hight, - - - -	Portland.
Leroy S. Hight, - - -	Portland.
Hiram Knowlton, - - -	Portland.
W. J. Knowlton, - - -	Portland.
P. J. Larrabee, - - -	Portland.
Seth L. Larrabee, - - -	Portland.
C. Thornton Libby, - - -	Portland.
Charles F. Libby, - - -	Portland.
George Libby, - - -	Portland.
Ira S. Locke, - - -	Portland.
Jos. A. Locke, - - -	Portland.
Wm. H. Looney, - - -	Portland.
John J. Lynch, - - -	Portland.
Chas. P. Mattocks, - - -	Portland.
John F. A. Merrill, - - -	Portland.
Carroll W. Morrill, - - -	Portland.
Wm. H. Motley, - - -	Woodfords.
Augustus F. Moulton, - -	Portland.
David E. Moulton, - - -	Portland.
George F. Noyes, - - -	Portland.
Irving W. Parker, - - -	Portland.
Franklin C. Payson, - -	Portland.
Henry C. Peabody, - - -	Portland.

Barrett Potter, - - -	Brunswick.
Wm. L. Putnam, - - -	Portland.
George D. Rand, - - -	Portland.
Edward M. Rand, - - -	Portland.
Edward C. Reynolds, - -	Portland.
F. W. Robinson, - - -	Portland.
Clarence E. Sawyer, - -	Brunswick.
George M. Seiders, - - -	Portland.
David W. Snow, - - -	Portland.
H. W. Swasey, - - -	Portland.
Joseph W. Symonds, - -	Portland.
Benj. Thompson, - - -	Portland.
Edward F. Tompson, - -	Portland.
Levi Turner, - - - -	Portland.
H. M. Verrill, - - - -	Portland.
Harry R. Virgin, - - -	Portland.
Augustus H. Walker, - -	Bridgton.
F. S. Waterhouse, - - -	Portland.
John A. Waterman, - - -	Gorham.
Lindley M. Webb, - - -	Portland.
Richard Webb, - - -	Portland.
John Wells, - - - -	Portland.
John S. White, - - -	Naples.
Robert T. Whitehouse, - -	Portland.
Virgil C. Wilson, - - -	Portland.
Albert S. Woodman, - -	Portland.
Edward Woodman, - - -	Portland.

Franklin County.

S. Clifford Belcher, . - -	Farmington.
Cyrus N. Blanchard, . - -	Wilton.
Frank W. Butler, - - -	Farmington.
Joseph C. Holman, - - -	Farmington.

N. P. Noble, - - - -	Phillips.
Elmer E. Richards, - - -	Farmington.
Philip H. Stubbs, - - -	Strong.
Josiah H. Thompson, - -	Farmington.
F. E. Timberlake, - - -	Phillips.

Hancock County.

Henry Boynton, - - -	Sullivan.
Wm. O. Buck, - - -	Bucksport.
F. Carroll Burrill, - - -	Ellsworth.
B. E. Clark, - - - -	Bar Harbor.
Edward S. Clark, - - -	Bar Harbor.
O. P. Cunningham, - - -	Bucksport.
L. B. Deasy, - - - -	Bar Harbor.
Chas. H. Drummey,* - - -	Ellsworth.
O. F. Fellows, - - -	Bucksport.
E. Webster French, - -	S. W. Harbor.
Geo. R. Fuller, - - -	S. W. Harbor.
L. F. Giles, - - - -	Ellsworth.
Hannibal E. Hamlin, - -	Ellsworth.
John T. Higgins, - - -	Bar Harbor.
A. W. King, - - - -	Ellsworth.
John A. Peters, 2nd, - -	Ellsworth.
C. A. Spofford,* - - -	Deer Isle.
E. P. Spofford, - - -	Deer Isle.
B. E. Tracy, - - - -	Winter Harbor
Geo. M. Warren, - - -	Castine.
Chas. H. Wood, - - -	Bar Harbor.

Kennebec County.

E. C. Ambrose, - - -	Readfield.
Charles L. Andrews, - -	Augusta.
Orville D. Baker, - - -	Augusta.

*Deceased.

Norman L. Bassett,	Augusta.
Emery O. Bean,	Readfield.
Geo. K. Boutelle,	Waterville.
James W. Bradbury,	Augusta.
F. E. Brown,	Waterville.
Simon S. Brown,	Waterville.
Lewis A. Burleigh,	Augusta.
Leroy T. Carleton,	Winthrop.
Leonard D. Carver,	Augusta.
Winfield S. Choate,	Augusta.
F. W. Clair,	Waterville.
Leslie C. Cornish,	Augusta.
Harvey D. Eaton,	Waterville.
Geo. W. Field,	Oakland.
W. H. Fisher,	Augusta.
Eugene S. Fogg,	Augusta.
Dana P. Foster,	Waterville.
H. E. Foster,	Winthrop.
A. M. Goddard,	Augusta.
Wm. T. Haines,	Waterville.
Herbert M. Heath,	Augusta.
Geo. W. Heselton,	Gardiner.
Melvin S. Holway,	Augusta.
C. F. Johnson,	Waterville.
Treby Johnson,	Augusta.
Samuel W. Lane,	Augusta.
Thomas Leigh,	Augusta.
Thomas J. Lynch,	Augusta.
Joseph H. Manley,	Augusta.
John McCarty,	Clinton.
George S. Paine,	Winslow.
Arthur L. Perry,	Gardiner.

Warren C. Philbrook, - -	Waterville.
F. K. Shaw, - - - -	Waterville.
Albert M. Spear, - - -	Gardiner.
G. T. Stevens, - - -	Augusta.
Asbury C. Stilphen, - -	Gardiner.
Lendall Titcomb, - - -	Augusta.
Henry S. Webster, - - -	Gardiner.
Joseph Williamson, Jr., - -	Augusta.

Knox County.

Alex A. Beaton, - - -	Rockland.
Edw. K. Gould, - - -	Rockland.
G. M. Hicks, - - - -	Rockland.
Arthur S. Littlefield, - -	Rockland.
Charles E. Littlefield, - -	Rockland.
J. H. Montgomery, - - -	Camden.
Joseph E. Moore, - - -	Thomaston.
David N. Mortland, - -	Rockland.
True P. Pierce, - - -	Rockland.
Reuel Robinson, - - -	Camden.
L. M. Staples, - - -	Washington.
Frederick S. Walls, - -	Vinal Haven.

Lincoln County.

Ozro D. Castner. - - -	Waldoboro.
Everett Farrington, - - -	Waldoboro.
Emerson Hilton, - - -	Wiscasset.
Wm. H. Hilton, - - -	Damariscotta.
G. B. Kenniston, - - -	Boothbay Har.
Geo. B. Sawyer, - - -	Wiscasset.

Oxford County.

P. C. Fickett, - - -	West Paris.

Seth W. Fife, - - -	Fryeburg.
E. F. Gentleman, - - -	Porter.
A. E. Herrick, - - -	Bethel.
Alfred S. Kimball, - - -	Norway.
Charles A. Mendall, - -	Canton.
George A. Wilson, - - -	South Paris.
J. S. Wright, - - - -	South Paris.

Penobscot County.

B. C. Additon, - - -	Bangor.
Frederick H. Appleton, - -	Bangor.
Charles A. Bailey, - - -	Bangor.
Victor Brett, - - - -	Bangor.
James H. Burgess, - - -	Bangor.
Hugh R. Chaplin, - - -	Bangor.
W. C. Clark, - - - -	Lincoln.
Milton S. Clifford, - - -	Bangor.
Josiah Crosby, - - -	Dexter.
J. Willis Crosby, - - -	Dexter.
Charles Davis, - - -	Bangor.
P. H. Gillin, - - - -	Bangor.
Joseph F. Gould, - - -	Old Town.
Charles Hamlin, - - -	Bangor.
Henry P. Haynes, - - -	East Corinth.
M. Laughlin, - - - -	Bangor.
Forrest J. Martin, - - -	Bangor.
John R. Mason, - - -	Bangor.
Alanson J. Merrill, - - -	Bangor.
Henry L. Mitchell, - - -	Bangor.
F. H. Parkhurst, - - -	Bangor.
H. H. Patten, - - -	Bangor.
Wm. B. Peirce, - - -	Bangor.
T. H. B. Pierce, - - -	Dexter.

S. T. Plummer,	Dexter.
W. H. Powell,	Old Town.
Allen E. Rogers,	Orono.
Erastus C. Ryder,	Bangor.
James M. Sanborn,	Newport.
Clarence Scott,	Old Town.
George T. Sewall,	Old Town.
Bertram L. Smith,	Patten.
Ruel Smith,	Bangor.
C. P. Stetson,*	Bangor.
Thos. W. Vose,	Bangor.
Peregrine White,	Bangor.
F. J. Whiting,	Old Town.
Franklin A. Wilson,	Bangor.
Charles F. Woodard,	Bangor.

Piscataquis County.

Calvin W. Brown,	Dover.
Frank E. Guernsey,	Dover.
Henry Hudson,	Guilford.
M. W. McIntosh,	Brownville.
Willis E. Parsons,	Foxcroft.
Jos. B. Peaks,	Dover.
John F. Sprague,	Monson.

Sagadahoc County.

Arthur J. Dunton,	Bath.
Sanford L. Fogg,	Bath.
Wm. T. Hall,	Richmond.
Wm. T. Hall, Jr.,	Bath.
George E. Hughes,	Bath.
Charles W. Larrabee,	Bath.
Charles D. Newell,	Richmond.
John Scott,	Bath.

Deceased.

Frank E. Southard, - - -	Bath.
Franklin P. Sprague, - -	Bath.
Frank L. Staples, - - -	Bath.
Joseph M. Trott, - - -	Bath.

Somerset County.

Turner Buswell, - - -	Solon.
George M. Chapman, - -	Fairfield.
Abel Davis, - - - -	Pittsfield.
Forrest Goodwin, - - -	Skowhegan.
Geo. W. Gower, - - -	Skowhegan.
Daniel Lewis, - - - -	Skowhegan.
John W. Manson, - - -	Pittsfield.
E. N. Merrill, - - -	Skowhegan.
F. E. McFadden, - - -	Fairfield.
Augustine Simmons, - -	No. Anson.
C. O. Small, - - - -	Madison.
L. L. Walton, - - - -	Skowhegan.
George G. Weeks, - - -	Fairfield,

Waldo County.

Ellery Bowden, - - -	Winterport.
Fred W. Brown, - - -	Belfast.
R. F. Dunton, - - -	Belfast.
George E. Johnson, - -	Belfast.
Wm. P. Thompson, - - -	Belfast.
Joseph Williamson, - - -	Belfast.

Washington County.

James M. Beckett, - - -	Calais.
F. I. Campbell, - - -	Cherryfield.
Clement B. Donworth, - -	Machias,
George R. Gardner, - -	Calais.
H. H. Gray, - - - -	Millbridge.

Samuel D. Leavitt, - - -	Eastport.
F. B. Livingstone, - - -	Calais.
J. H. McFaul, - - -	Eastport.
I. G. McLarren, - - -	Eastport.
B. B. Murray, - - - -	Pembroke.
L. H. Newcomb, - - -	Eastport.
Charles Peabody, - - -	Millbridge.
B. Rogers, - - - -	Pembroke.

York County.

Fred J. Allen, - - - -	Sanford.
Horace H. Burbank, - -	Saco.
John B. Donovan, - - -	Alfred.
Walter H. Downs, - - -	So. Berwick.
George A. Emery, - - -	Saco.
Geo. D. Emery, - - -	E. Lebanon.
Willis T. Emmons, - - -	Saco.
Hampden Fairfield, - - -	Saco.
George A. Goodwin, - -	Springvale.
John M. Goodwin, - - -	Biddeford.
F. W. Guptill, . - -	Saco.
George W. Hanson, - -	Sanford.
Frank M. Higgins, - - -	Limerick.
Nathaniel Hobbs, - - -	No. Berwick.
Luther R. Moore, - - -	Saco.
W. P. Perkins, - - -	Cornish.
Charles H. Prescott, - -	Biddeford.
Moses A. Safford, - - -	Kittery.
John C. Stewart, - - -	York Village.
Charles E. Weld,* - - -	W. Buxton.

*Deceased.

PROCEEDINGS

OF THE

TENTH ANNUAL MEETING

OF THE

MAINE STATE BAR ASSOCIATION

HELD AT

AUGUSTA, MAINE, FEBRUARY 4, 1901.

AUGUSTA:
PRESS OF CHARLES E. NASH.
1901.

PROCEEDINGS

OF THE

TENTH ANNUAL MEETING

OF THE

MAINE STATE BAR ASSOCIATION

HELD AT

AUGUSTA, MAINE, FEBRUARY 4, 1901.

AUGUSTA:
PRESS OF CHARLES E. NASH.
1901.

Office of Secretary of
Maine State Bar Association.

AUGUSTA, JANUARY 28, 1901.

DEAR SIR:

The tenth annual meeting of the MAINE STATE BAR ASSOCIATION will be held at the Senate Chamber, Augusta, Maine, on Monday, February 4, 1901, at 3 o'clock P. M.

That date marks the one hundredth anniversary of the elevation of Chief Justice Marshall to the Supreme Court of the United States and is to be celebrated by Bar Associations and Law Schools throughout the country as John Marshall Day. It is hoped a large number of the members of the bar in this State will attend this meeting.

The order of business will be as follows:

1. *Report of Secretary and Treasurer.*
2. *Reports of Committees.*
3. *Address by the President, Hon. Wallace H. White.*
4. *Address upon the life of John Marshall, by Hon. William L. Putnam.*
5. *Election of Officers.*

The meeting will conclude with a dinner at Hotel North, at 8.30 o'clock, P. M.

Please notify the Secretary at once by enclosed postal card whether you will be present at the dinner. This is necessary in order to complete the arrangements.

Per order Executive Committee.

LESLIE C. CORNISH,

Secretary.

Maine Bar State Association.

SEVENTH ANNUAL MEETING.

AUGUSTA, MAINE, February 4, 1901.

In accordance with the foregoing call which was duly sent to each member of the Association in accordance with the by-laws, the tenth annual meeting of the Maine State Bar Association was held in the Senate Chamber, Augusta, Maine, on Monday, February 4, 1901, at 3 o'clock, P. M.

In the absence of the President, Hon. Wallace H. White of Lewiston, Hon. Albert M. Spear of Gardiner, Vice-President of the Association, presided.

The records of the last meeting were read and approved.

The Treasurer submitted his annual report which was as follows.

TREASURER'S REPORT.

AUGUSTA, MAINE, February 4, 1901.

LESLIE C. CORNISH, Treasurer, in account with the MAINE STATE BAR ASSOCIATION for the year 1900-1901.

DR.

To cash balance from preceding year,	$53.60	
Rec'd for dues during year,	257.00	$310.60

CR.

By stamps, No. 26,	$4.00	
By salary, Secretary and Treasurer, No. 27,	100.00	
By stamps, No. 28,	7.70	
" freight, No. 29,	.75	
" stamps, No. 30,	6.00	
" wrappers, No. 31,	3.50	
" stamps, No. 32,	10.00	
" " No. 33,	3.00	
" freight, No. 34,	.50	
" stamps bought,	1.00	
" postal cards, No. 35,	3.15	
" stamped envelopes, No. 36,	3.71	
	$143.31	
C. E. Nash, bill for printing, No. 37,	93.60	236.91
Cash in bank to balance, Feb. 4, 1901,		$73.69
		$310.60

The report was examined and approved by Mr. F. E. Timberlake and ordered to be placed on file.

The Secretary submitted the following report which was accepted.

SECRETARY'S REPORT.

As to-day marks the tenth annual meeting of this Association and the end of the first decade of its existence, a brief résumé of what the Association has accomplished may not be inappropriate.

The members will perhaps remember that the first Maine State Bar Association was formed twenty years ago. A call was issued under date of February 1, 1881, signed by James D. Fessenden, Charles F. Libby and Henry C. Peabody, a committee of the Cumberland Bar, and was in the following form:

"Portland, February 1, 1881.

At the annual meeting of the Cumberland Bar Association, the undersigned were appointed a committee to inquire into the expediency of forming a State Bar Association, and of some uniform system of examining candidates for admission to the bar. Will you kindly bring this matter to the attention of the bar of your county at an early day and request the appointment of two or more delegates to meet with representatives from other counties, at Augusta, on Wednesday, the twenty-third day of February, 1881, at 2 P. M., for consideration of the above mentioned subjects."

A meeting was held on February 23d, several gentlemen being present from the different counties of the State, a constitution was adopted, an act of incorporation recommended and officers chosen, with Hon. Josiah H. Drummond of Portland, as president, and Charles F. Woodard of Bangor, secretary and treasurer.

An act regulating admission to the bar was presented and recommended, and at that session of the Legislature

it became a law. This is Chapter 62 of the Public Laws of 1881, and under this act admission to the bar was governed until the new law of 1899. That meeting was adjourned to March 1, 1881, when six new members were admitted to the Association and another adjournment made to March 15, 1881. At the last named date no quorum was present, and final adjournment was made and the records abruptly stopped. Nothing more was heard of the Maine State Bar Association for ten years.

In 1891, the present Association was incorporated by the Legislature. The meeting for organization was held at the State House on March 18, 1891. By-laws were adopted and officers elected, with Hon. Charles F. Libby of Portland, as president.

The first annual meeting of the new association was held at Augusta on February 17, 1892, with an address by President Libby on the subject of Legal Reforms. A special committee was appointed to consider the subject and report at a special meeting to be subsequently called. An address upon The Profession was also delivered at the same meeting by Hon. O. D. Baker of Augusta. At the dinner in the evening, Hon. J. H. Drummond gave an address upon Reminiscences of the Kennebec Bar.

The special meeting provided for was held on December 21st, 1892, when the report of the special committee was presented and adopted, recommending the passage of an act regulating suits at law and in equity, and preventing a judge at the law court from sitting in review of his own ruling.

This act was passed by the Legislature in 1893, and is now Chapter 217 of the Public Laws of 1893.

That meeting also recommended the passage of a bill in relation to exceptions and stenographers, providing for the taking down of all comments of the court in the

trial of a case, and this found its way into enactment, being Chapter 174 of the Public Laws of 1893.

At the same meeting a bill was proposed to change the judicial system of the state by abolishing superior courts and establishing a Court of Appeal independent of the *nisi prius* court.

The second annual meeting was held at Augusta on February 8, 1893, the address being given by the Secretary, subject, The Morale of the Legal Profession. The several bills relating to the proposed change in the judicial system were discussed and a resolution was passed in favor of establishing a distinct Law Court, and of the appointment of a commission of five by the Legislature to revise the system. Nothing, however, came from this discussion, it finally appearing that a majority of the bar of the state preferred the present system.

The third annual meeting was held at Portland, February 14, 1894, at which President Libby delivered an address on the Torrens System of Land Transfer, a system which has since been adopted in Massachusetts with excellent results.

At that meeting a resolution for the appointment of commissioners on uniformity of legislation was passed and this was subsequently carried out by the Legislature in Chapter 138, Laws of 1895.

In the evening an after-dinner address was delivered by Hon. Wm. L. Putnam on George Evans.

The fourth annual meeting was held at Augusta on February, 15, 1895, at which a resolution was introduced in favor of the passage of a resolve by the Legislature for the purchase of law books to complete sets of both American and English Reports and Statutes. This resolve was passed by the Legislature, and is Chapter 50 of the Laws of 1895.

The fifth annual meeting of the Association was held at Bangor, February 26, 1896. The subject of President Libby's address was Legal Education, recommending the establishment of a State Board of Bar Examiners.

At this meeting, Mr. Libby, after a faithful and very efficient service of five years as president of the Association, expressed a desire to be relieved of the duties of the office, and since that time a new policy has been adopted; in my judgment not a good one, and that is, allowing the President of the Association to remain only one or two years in office. If the design is to confer the office as simply an honor, that plan may be good; but if the Association is to accomplish anything, the President must be the leader in the movement, and one or two years is altogether too short a time to allow him to accomplish anything. The head of such an organization must originate and carry out such suggestions as may be most desirable; but if he is simply to hold the office and make an annual address and then retire, much less will be accomplished.

At that meeting Hon. H. M. Heath of Augusta, was elected President, and a committee was appointed to prepare a bill along the line of the President's address, taking up the subject of a uniform system of admission to the bar.

At the evening session an after-dinner address was made by Hon. Moorfield Storey of Boston, President of the American Bar Association, on International Arbitration.

The sixth annual meeting was held at Augusta on February 10, 1897. The feature of the meeting was the address by President Heath on Reforms in Legal Procedure. At that meeting a special committee was appointed to prepare a bill regulating admission to the bar and present

the same to the Legislature. That was done, but the matter was referred to the next Legislature which was to meet in 1899.

At that meeting, Hon. F. A. Wilson of Bangor, was elected President.

The seventh annual meeting was held in Auburn on February 9, 1898. An interesting address was made by President Wilson on The Lawyer of Yesterday and the Lawyer of To-day.

The bill regulating admission to the bar was presented, recommended, and has since been enacted as Chapter 135 of the Laws of 1899. At that meeting Hon. C. E. Littlefield of Rockland, was elected President.

The eighth annual meeting was held at Augusta on February 8, 1899. President Littlefield's address again took up the subject of Reform in Legal Procedure, suggesting many changes that would tend to expedite business in the courts. As a result, a committee was appointed to consider matters taken up in the address and especially to prepare a bill in favor of a re-arrangement of the sessions of the Law Court so as to have a midwinter term.

Hon. Wallace H. White of Lewiston, was elected President.

The ninth annual meeting was held at Auburn, February 14, 1900, when the report of the Committee on the Change of Law Terms was considered and referred to the special meeting to be held in Portland, July 16, 1900, when a bill was adopted that will be presented at the present session of the Legislature, providing for the holding of a term of the Law Court at Bangor, on the first Tuesday of June for the eastern half of the State, and at Portland on the fourth Tuesday of June for the western half of the State, and at Augusta on the second Tuesday of December for the entire State.

A committee was also appointed to consider the advisability of a revision of the statutes. That matter has already been presented to the Legislature and is to be considered by the Judiciary Committee at its session tomorrow.

Another committee was appointed to make arrangements for the proper observance of John Marshall day, and our gathering here is the result of their efforts.

Such is a brief résumé of the doings of this Association for the first decade of its existence. In the line of active legislation and reform it has accomplished considerable. No profession is more conservative than ours. It makes haste slowly. The history of this Association is a marked example of this fact. Not a single suggestion has been embodied in legal enactment until it has been carefully considered and reconsidered, sometimes covering a space of two or three years.

Apart from positive enactments, the Association has served to some extent to bring together the members of the bar along a line of work that may be for the advantage of the profession. Its possibilities however in this direction are much greater than we realize. I would be glad to see the time come when the members of the bar in this state would feel like giving up one or two full days of their time to consider questions pertaining directly or indirectly to their professional life. In a large number of the states such meetings are held, covering two or even three days, and the time is occupied with addresses and discussions that are of vital interest; but somehow our attorneys find no time for this or are not sufficiently interested to care for it. The Grangers will hold a three days' annual session, many of the lawyers who are Masons will devote two or three days to the annual meetings in Portland; the Press Association

always has a midwinter meeting of two days beside an excursion of several days every summer; the medical societies, dental societies, hotel keepers, and even undertakers, will take great pains to attend their annual gatherings; but somehow or other, the members of the bar are willing to devote less time to such matters than any one else.

I hope that in time this may be changed and that a stronger professional spirit may be manifested.

A personal word in conclusion. For a full decade I have served as secretary and treasurer of this Association and I now wish to surrender the honor and the burden. My connection with the Association has always been most pleasant, but I desire to be relieved of the work and think that the change may be better for the Association itself. In doing this permit me to express my thanks to the officers and members with whom during these ten years I have been placed in the most pleasant relations.

LESLIE C. CORNISH,

Secretary.

Augusta, Maine, February 4, 1901.

Mr. W. S. Choate from the Special Committee on the proposed bill for change of law terms, presented an oral report of that committee, together with a draft of the proposed bill which had been printed in the proceedings of the previous year.

On motion of Mr. C. F. Libby,

Voted: That the bill relating to the change of law terms, as amended, be adopted and that the committee be requested to present the same to the present Legislature and use their best efforts to secure its passage.

Voted: That the same committee be instructed to prepare and present to the present Legislature a bill making the necessary changes in holding the nisi prius terms of the Supreme Judicial and Superior Courts.

Mr. Leslie C. Cornish from the Committee on Revision of the Statutes, reported that a resolve had already been drawn and introduced into the Legislature providing for such a revision, a hearing on which would be given by the Judiciary Committee on February 5, 1901.

On motion of Mr. H. M. Heath,

Voted: That this Association is of the opinion that this Legislature should at this session begin the preparatory work for the revision of the statutes and that a committee of five be appointed by the President to present the matter to the Judiciary Committee at the public hearing advertised for February 5th.

The Chair subsequently appointed the following as members of that committee: Messrs. H. M. Heath, Geo. C. Wing, F. C. Payson, Leslie C. Cornish and Joseph E. Moore.

Mr. Charles F. Libby from the Committee on Uniformity of Legislation made an oral report of the work of that committee.

The annual address of the President, Hon. Wallace H. White, was then read by Mr. Spear.

ANNUAL ADDRESS.

By Honorable Wallace H. White, *President of the Maine State Bar Association.*

Gentlemen of the Maine State Bar Association:

It has been customary at the Annual Meetings of this Association for the President to deliver an address upon some topic relating to the profession, and the practice of the law, but upon this occasion a different order of exercises will be observed, and instead of the law being the theme of our discourse and comment, the life and judicial career of one of the most distinguished men our nation has produced, will be the inspiration and subject of our thought and speech.

It is probably true that the average person has very scanty knowledge of the great influence of John Marshall in the formative, constructive period of the nation's history. Sooner or later, however, a really great and luminous mind must be appreciated, and to-day in every State of this great nation, even in the Halls of Legislation in Washington, men pause in their daily avocations to pay tribute to John Marshall.

As I have read and reflected upon the life and character of that great lawyer, I have been profoundly impressed with the thought of how true it is that Providence seems to raise up great men for great occasions.

The history of the world is full of illustrations of this over-ruling Providence in the affairs of men. I am

aware that with the lapse of time the imagination is apt to clothe the lives and careers of men who have been actors in great events with a glamour and glory which upon close and critical inspection is not fully justified, and that after all, all men are subject to the common frailties of humanity. But who is there who does not realize in a Washington and in a Lincoln, men who played a part in the troublous and prodigious events which affected not only the welfare of the nation but the welfare of all humanity, something more than mere chance, something more than mere human agency. But in the life of a Washington or a Lincoln there is something to appeal to the imagination. There is always in great political events, or on the fields of military glory or renown, something to stir the heart and to excite the feelings and the passions, but the crowning glory of Marshall's life was in a field of human activity which makes no appeal to the feelings or to sentiment.

For nearly thirty-five years of his life he presided over the Supreme Court of the United States at a time when our Constitution was an untried experiment in the history of nations, when its very adoption was looked upon by many honest, able and sincere men as marking the destruction of our liberties, even as now the questions growing out of the acquisition of territory following the Spanish war is looked upon by some of our public men as dangerous to the safety of our beloved country, and as even threatening the perpetuity of our institutions.

He was called upon to interpret, construe, adapt and apply this untried, written constitution to a new political life. In this great work he was little guided or aided by the experience or precedents of other peoples or other nations. Even his own education, though good perhaps for the times in which he lived, could not be called

liberal for these times, and his career, though distinguished among his contemporaries, was not such as to mark him as pre-eminent among all other men.

How is it then, that Mr. Justice Story, who sat upon the Bench of the Supreme Court with Mr. Marshall for twenty-four years, was able to say of him in an address delivered before the Suffolk Bar, that, "He was one of those men to whom centuries alone give birth."

It may be that great occasions make great men, but I prefer to believe that after all such gifts as those of Marshall do not come wholly from within, but rather that the hand of God shapes the destiny of nations and of individuals.

How happily the gifts of his mind were adapted to the stupendous work he had to perform is illustrated by this extract from Judge Story's address:

"Let it be remembered, that, when Chief Justice Marshall first took his seat on the Bench, scarcely more than two or three questions of constitutional law had ever engaged the attention of the Supreme Court. As a science, constitutional law was then confessedly new; and that portion of it, in an especial manner, which may be subjected to judicial scrutiny, had been explored by few minds, even in the most general forms of inquiry. Let it be remembered, that in the course of his judicial life, numerous questions of a practical nature, and involving interests of vast magnitude, have been constantly before the Court, where there was neither guide, nor authority; but all was to be wrought out by general principles. Let it be remembered, that texts, which scarcely cover the breadth of a finger, have been since interpreted, explained, limited, and adjusted by judicial commentaries, which are now expanded into volumes.

Let it be remembered, that the highest learning, genius, and eloquence of the Bar, have been employed to raise doubts, and fortify objections; that State sovereignties have stood impeached in their legislation; and rights of the most momentous nature have been suspended upon the issue; that under such circumstances, the infirmities of false reasoning, the glosses of popular appeal, the scattered fire of irregular and inconclusive assertion, and the want of comprehensive powers of analysis, had no chance to escape the instant detection of the profession; —let these things (I say) be remembered; and who does not at once perceive, that the task of expounding the Constitution, under such circumstances, required almost superhuman abilities? It demanded a mind, in which vast reaches of thought should be combined with patience of investigation, sobriety of judgment, fearlessness of consequences, and mastery of the principles of interpretation, to an extent rarely belonging to the most gifted of our race."

Mr. John Fiske speaks of him as "Second to none among all the illustrious jurists of the English race." And of his work in interpreting the Constitution, he says: "It was thus that the practical working of our Federal Constitution during the first thirty years of the nineteenth century was swayed to so great an extent by the profound and luminous decisions of Chief Justice Marshall that he must be assigned a foremost place among the founders of our Federal Union."

However entrancing this theme, it is not for me to occupy your time with any reflections and observations of mine upon the presence of such a man as John Marshall as the Chief Justice of the Supreme Court at so trying and important a period in the development of constitutional government in this nation.

We have with us to-day a distinguished lawyer who long practiced in the courts of our State, winning for himself a reputation for learning and ability in the profession which none have excelled and few equalled. He has been called from the practice of the profession to occupy a distinguished position as one of the Judges of the Circuit Court of the United States, and it is with great pleasure that I present to you as the orator of the day, the Honorable William L. Putnam, of Portland.

The following address upon the life and character of John Marshall was then delivered by Hon. Wm. L. Putnam of Portland, Judge of the United States Circuit Court.

LIFE AND CHARACTER OF JOHN MARSHALL.

By Honorable William L. Putnam.

Mr. President, and Gentlemen of the Maine State Bar Association:

Forty-five years ago this winter, through some singular coincidences, it became necessary for me, although not twenty-one years of age, to call to order the House of Representatives of this State, and to preside over it until it completed a temporary organization in the absence of the Speaker and the Clerk. The whole scene is photographed on my memory with the same distinctness as though it occurred but yesterday. The chaplain who offered prayer became the reverend Bishop of the Diocese of Michigan. By some happening, the two gentlemen who reported for the local papers at Augusta for both the Senate and the House, sat at that time one at my right and one at my left, at the miniature desks then reserved for such uses. One became the candidate of a great party for the Presidency, and the other the Chief Justice of the United States. These, except the Chief Justice, and, also, the then Governor of the State, fearless and able, the distinguished President of the Senate, afterwards more distinguished as Senator and Secretary of the Treasury, the honored Speaker of the House, and the long array of the many eminent gentlemen who held

seats in the two branches of that unrivalled Legislature, have passed to their reward, and the generations of men have been re-created; yet the same hills surround us, the same blue sky is over our heads, and the same flag waves from the dome of this capitol. Thus we have, in microcosm, the greater series of events the beginnings of which we are honoring to-day. Through all the mutations which have occurred in the affairs of our nation, with all the upheavals which have shaken and re-created Europe, the great principles of Constitutional law, enunciated by John Marshall nearly a century ago, remain as fixed as the fundamental rules of right and justice.

Marshall was born in 1755. He was educated at the domestic hearth until he entered the Revolutionary army, where he rendered good service; and, afterwards, beginning, indeed, while in the army, he laid at Richmond the foundations of his legal knowledge. He held many political offices. He took part in the Virginia Constitutional Convention. As a member of Congress, he offered the famous resolutions of General Lee: "Washington, first in peace, first in war, and first in the hearts of his countrymen!" John Adams made him Secretary of State, and afterwards, on January 31, 1801, commissioned him as Chief Justice of the United States. His French envoyship marked the critical stage in that violent political rending apart which preceded the administration of Jefferson. As unpopular as was John Adams in many sections, the insults Tallyrand heaped on our envoys stirred a universal sentiment of patriotism, which, for the time being, swept away Jeffersonianism, gave birth to "Hail Columbia," and received Marshall on his return from Paris with loud acclaim. All this, however, was soon succeeded by the Kentucky resolutions, devised by Jefferson, than which nothing could have been more

hostile to the deeply seated sentiments of Washington. It was when the wave which had floated the administration of Adams had receded, that Marshall was made Chief Justice, in open defiance of Jefferson and his supporters, and subject to their bitter and determined hostility. It was, however, the issues of the Jeffersonian political struggle which made him monumental.

The most trustworthy, as well as the most objective characterizations of Marshall, are the contemporary pictures drawn by Joseph Story. In a letter from Washington in 1808, Judge Story described his physical traits vividly:

"Marshall is of a tall, slender figure, not graceful nor imposing, but erect and steady. His hair is black, his eyes small and twinkling, his forehead rather low, but his features are in general harmonious. His manners are plain, yet dignified; and an unaffected modesty diffuses itself through all his actions. His dress is very simple, yet neat; his language chaste, but hardly elegant; it does not flow rapidly, but it seldom wants precision. In conversation he is quite familiar, but is occasionally embarrassed by a hesitancy and drawling. His thoughts are always clear and ingenious, sometimes striking, and not often inconclusive; he possesses great subtility of mind, but it is only occasionally exhibited. I love his laugh,—it is too hearty for an intriguer,—and his good temper and unwearied patience are equally agreeable on the bench and in the study. His genius is, in my opinion, vigorous and powerful, less rapid than discriminating, and less vivid than uniform in its light. He examines the intricacies of a subject with calm and persevering circumspection, and unravels the mysteries with irresistible acuteness."

Soon after his death, in a formal article in the North American Review, he thus analyzed his character:

"When can we expect to be permitted to behold again so much moderation united with so much firmness, so much sagacity with so much modesty, so much learning with so much experience, so much solid wisdom with so much purity, so much of everything, to love and admire, with nothing, absolutely nothing, to regret? What, indeed, strikes us as the most remarkable in his whole character, even more than his splendid talents, is the entire consistency of his public life and principles. There is nothing in either which calls for apology or concealment. Ambition has never seduced him from his principles, nor popular clamor deterred him from the strict performance of duty. Amid the extravagancies of party spirit, he has stood with a calm and steady inflexibility; neither bending to the pressure of adversity, nor bounding with the elasticity of success. He has lived, as such a man should live, (and yet, how few deserve the commendation!) by and with his principles. Whatever changes of opinion have occurred, in the course of his long life, have been gradual and slow; the results of genius acting upon larger materials, and of judgment matured by the lessons of experience. If we were tempted to say, in one word, what it was in which he chiefly excelled other men, we should say in wisdom; in the union of that virtue, which has ripened under the hardy discipline of principles, with that knowledge, which has constantly sifted and refined its old treasures, and as constantly gathered new."

"But, interesting as it is to contemplate such a man in his public character and official functions, there are those, who dwell with far more delight upon his private and domestic qualities. There are few great men, to whom

one is brought near, however dazzling may be their talents or actions, who are not thereby painfully diminished in the estimate of those who approach them. The mist of distance sometimes gives a looming size to their character; but more often conceals its defects. To be amiable, as well as great; to be kind, gentle, simple, modest, and social, and at the same time to possess the rarest endowments of mind, and the warmest affections, is a union of qualities, which the fancy may fondly portray, but the sober realities of life rarely establish. Yet it may be affirmed by those who have had the privilege of intimacy with Mr. Chief Justice Marshall, that he rises, rather than falls, with the nearest survey; and that in the domestic circle he is exactly what a wife, a child, a brother and a friend would most desire. In that magical circle, admiration of his talents is forgotten, in the indulgence of those affections and sensibilities which are awakened only to be gratified. More might be said with truth if we were not admonished that he is yet living, and his delicacy might be wounded by any attempt to fill up the outline of his more private life."

Marshall died on the sixth of July, 1835. In the previous month, Story, anticipating his end, wrote of him in most expressive terms:

"I shall never see his like again! His gentleness, his affectionateness, his glorious virtues, his unblemished life, his exalted talents, leave him without a rival or a peer."

As these expressions cover alike personal traits and judicial attainments and powers, we will not venture to touch up with our brush this complete portrait, painted by a master hand; but we will briefly point out the permanency of the victory which Marshall won.

As we have already suggested, his struggle was against Jeffersonianism; and here we will define what

we mean by Jeffersonianism for the purpose of this address. We lay aside those fictitious issues, made through misunderstandings or misapprehensions of the position of the Constitutionalists, including Washington and Marshall. We also lay aside Jefferson's enormous contribution to the general leavening of the lump, as to which nothing distinctly Jeffersonian remains, and as to which the initiatory movements, as usually happens, were like the flood which precedes the visible turning of the tide; so that what is added by this individual or that one is not computable. We limit our definition to that class of theories which were peculiar to the Virginia cabal, and which found expression in the Kentucky Resolutions, and in the action of the Court of Appeals of Virginia, defying the mandate of the Supreme Court of the United States. All these, so far as the Federal courts are concerned, were, in effect, crushed in 1816, under the judicial presidency of Marshall, in the famous judgment in Martin against Hunter, wherein it was unanimously determined that the Supreme Court is the final arbiter as to the extent of Federal constitutional powers, and that the State tribunals must yield to its arbitrament. This Jeffersonianism was, indeed, nullification. In 1822, Story, who begun as a Jeffersonian Republican, writes: "Mr. Jefferson stands at the head of the enemy of the Judiciary, and I doubt not will leave behind him a numerous progeny bred in the same school." Jefferson confessed himself in his letter to Ritchie, wherein he wrote:

"The judiciary of the United States is a subtle corps of sappers and miners, constantly working underground to undermine the foundations of our confederated fabric." "An opinion is huddled up in conclave, perhaps by a majority of one, delivered as if unanimous, and with the silent acquiescence of lazy and timid associates,

by a crafty chief judge who sophisticates the law to his mind by the turn of his own reasoning."

Jefferson's hostility betrayed Marshall into his only unjudicial act in Marbury against Madison, where the court went as far beyond its jurisdiction as it afterwards did in the case of Dred Scott. Of this, McMaster, in his History of the people of the United States, says:

"The Court and the President were at war. The issue was promptly accepted, and Chief Justice Marshall hurled back a defiance from the Supreme Bench. The opportunity for this defiance was afforded by the famous case of Marbury against Madison." "When Jefferson read the decision he was more incensed against the Court than ever. The bold language in which the Chief Justice had defined the Executive power, had set forth the Executive duties, had accused the President of violating a vested legal right, above all, the unusual way in which the decision had been made, could mean nothing else than defiance." "Jefferson justly felt that John Marshall had openly defied him. His friends shared this feeling, and went forward more eagerly than ever in their new attack on the last remnant of Federal power."

To see is to believe; and so Henry Adams, in describing the scene when Marshall administered the oath of office to Jefferson at his first inauguration, brings out the issues between them in the sharpest lines:

"In this first appearance of John Marshall as Chief Justice to administer the oath of office lay the dramatic climax of the inauguration. The retiring President, acting for what he supposed to be the best interests of the country, by one of his last acts of power, deliberately intended to perpetuate the principles of his administration, placed at the head of the judiciary, for life, a man as obnoxious to Jefferson as the bitterest New England

Calvinist could have been; for he belonged to that class of conservative Virginians whose devotion to Washington, and whose education in the common law, caused them to hold Jefferson and his theories in antipathy. The new President and his two Secretaries were political philanthropists, bent on restricting the powers of the national government in the interests of human liberty. The Chief Justice, a man who in grasp of mind and steadiness of purpose had no superior, perhaps no equal, was bent on enlarging the powers of government in the interests of justice and nationality. As they stood face to face on this threshold of their power, each could foresee that the contest between them would end only with life."

"Nevertheless," he continues, "this great man nourished one weakness. Pure in life; broad in mind, and the despair of bench and bar for the unswerving certainty of his legal method; almost idolized by those who stood nearest him, and loving warmly in return,—this excellent and amiable man clung to one rooted prejudice; he detested Thomas Jefferson. He regarded with quiet, unspoken, but immovable antipathy, the character and doings of the philosopher standing before him, about to take the oath to preserve, protect, and defend the Constitution. No argument or entreaty affected his conviction that Jefferson was not an honest man. 'By weakening the office of President he will increase his personal power,' were Marshall's words, written at this time; 'the morals of the author of the letter to Mazzei cannot be pure.' Jefferson in return regarded Marshall with a repugnance tinged by a shade of some deeper feeling, almost akin to fear. 'The judge's inveteracy is profound,' he once wrote, 'and his mind of that gloomy malignity which will never let him forego the opportunity of satiating it on a victim.'"

But Jeffersonianism, as it came at issue with Marshall, died before the close of Jefferson's first administration. Its coffin was made by Jackson in his struggle against Calhoun, and it was buried in the Civil War, while Marshall's work endures to the day of this one hundredth anniversary. Jefferson had both the sword and the purse, while Marshall had neither. He could appeal only to the sober thought of the country, commencing his appeals at a period when the Federal courts were attacked by a fierce and continued tempest, sweeping over the hills and through the valleys with a volume and persistency never since equalled or approached. Nevertheless, McMaster shows that the issues made by Jefferson were drowned out even before the close of his first administration. The historian writes of his re-election, when the Federalists secured but fourteen electoral votes:

"The President was greatly delighted. The two parties which had once contended with such violence, he wrote a friend, have almost wholly melted into one. But the cause of this melting he strangely misunderstood. The Federalists he believed had come over to the Republicans. But the truth was, the Republicans had made great strides toward Federalism. They had come into power pledged to preserve State rights, to lessen executive influence, to construe the Constitution strictly in accordance with the principles laid down in the Virginia and Kentucky resolutions of 1798 and 1799. Did they do so? The most bigoted Federalist could not say they did." "The great mass of the men who, in 1800, voted for Adams, could in 1804 see no reason whatever for voting against Jefferson. Scarcely a Federal institution was missed. Not a Federal principle had been condemned. They saw the debt, the bank, the navy still preserved; they saw a broad construction of the Consti-

tution, a strong government exercising the inherent powers of sovereignty, paying small regard to the rights of States, and growing more and more national day by day, and they gave it a hearty support, as a government administered on the principles for which, ever since the Constitution was in force, they had contended."

This was the demonstration of a practical reaction in favor of the permanent acknowledgment of the constitutional principles maintained by Marshall, whose power and success in perpetuating them we formally recognize to-day. During the century, Europe has been constitutionally revolutionized, and the kaleidoscope of its map has been completely changed. Old flags have disappeared, and new flags, to some extent, have taken their places. The United States, also, have passed through the throes of one of the greatest civil strifes of modern times; yet the language of the Supreme Court, as uttered through Chief Justice Waite, Mr. Justice Miller, and other Justices who have spoken for it subsequently to all these great convulsions, repeats constantly what was said by Marshall. A comparison carefully made, and stated in a summary manner, between the stability of constitutional principles in the United States during the last century, and their instability elsewhere in the civilized world, leaves a conviction which startles all superficial understandings in reference thereto.

It is said the Constitution has been changed in its essential features by amendments. An amendment is constitutional; and, therefore, we might set up a technical answer to this. But we put it on broader grounds. An amendment to the Constitution in violation of its fundamental principles would be, in every just sense, an essential change; but none of that nature have been made. The earlier amendments were in truth a part of the origi-

nal Constitution. Then came two relating merely to matters of detail. Afterwards, came those which grew out of the Civil War, but which constituted a natural development of the great principles of the Constitution. Take the amendment abolishing slavery! It did little more than recognize an existing condition of things. But we think a fair reading of the history of the constitutional period satisfies that, between the express threat against the slave trade on the ocean at the East, and the Ordinance of 1787 on the West, the fathers considered that they had so shut in slavery on the front and on the rear that, in time, it would die for want of food. The expansion of the slave power which resulted in the war, and in the latest Constitutional amendments, was not in their contemplation; and when, as the consequence thereof, slavery was abolished, the country did not depart from the underlying sentiment of the Constitution, but oscillated back to it. So also those amendments prohibiting the States from jeopardizing the life, liberty and property of our fellow citizens! These were simply the application to the States of the great civil guaranties which the Constitution originally demanded from the Federal government.

Let us look at the great sanctions in behalf of liberty which we find in the Constitution; the division into three great Departments, the executive, the legislative and the judicial; the judicial power made independent and placed beyond the control of faction; the veto power; the habeas corpus; the prohibition of *ex post facto* laws, and of all laws for the deprivation of life, liberty or property without due process; all the provisions against discriminations in favor of States or sections; the protection thrown around criminals; the security of trial by jury; the right to the enjoyment everywhere of the privileges

and immunities of citizens of the several States; these were the great guaranties of the Constitution! We ask you, whether, after the lapse of a century, they do not all shine to-day like the constellations? The builders of our Constitution had not been without practical experience. Almost every State, at the time the Federal Constitutional Convention met, had a written constitution, which had the great guaranties of which we have spoken. But with regard to the relations of the States to the Federal government, they trod a path never blazed. On the one hand, they came together to make a more perfect Union; on the other, they did not forget that the towns and the individual colonies had been able to meet successfully, first the tyranny of Great Britain, exercised through civil authorities, and, afterwards, her armed forces. The two were at different poles, and were to be counterbalanced. The machinery for this was necessarily experimental. It was not possible that it would not oscillate. But, whenever here we take the great landmarks set by the Supreme Court, whose decisions ultimately control, both directly and by appealing to the hearts and good sense of the people, they stand as they always stood. Chief Justice Waite, speaking in behalf of the Supreme Court in 1876, said:

"The government thus established and defined is to some extent a government of the States in their political capacity. It is also, for certain purposes, a government of the people. Its powers are limited in number, but not in degree. Within the scope of its powers, as enumerated and defined, it is supreme and above the States; but beyond, it has no existence. It was erected for special purposes, and endowed with all the powers necessary for its own preservation and the accomplishment of the ends its people had in view. It can neither

grant nor secure to its citizens any right or privilege not expressly or by implication placed under its jurisdiction. The people of the United States resident within any State are subject to two governments; one State, and the other national; but there need be no conflict between the two. The powers which one possesses the other does not. They are established for different purposes and have separate jurisdictions. Together they make one whole, and furnish the people of the United States with a complete government, ample for the protection of all their rights at home and abroad."

Mr. Justice Miller, in his address at the semi-centennial of the University of Michigan in 1887, in closing his comparison of the decisions of the Supreme Court since the War of the Rebellion with those before, said:

"The necessity of the great powers, conceded by the Constitution originally to the Federal government, and the equal necessity of the autonomy of the States and their power to regulate their domestic affairs, remain as the great features of our complex form of government."

Everything thus said only echoes Marshall and his associates. Personal theories have nothing to do with historical questions, but we are persuaded that, while, in view of the great and rapid growth of our affairs, we have been impatient at the lack of the restraints of law, and have, therefore, appealed to the stronger power, yet, as our interests become settled, the distinctive forces of the Federal government and the several States will be more thoroughly valued, and we will adhere the more closely to the fundamental sentiment which underlies our composite political structure.

It is said that certain usages have intervened, that certain practices have grown up, which are additional to the Constitution, and which, in some sense, have avoided its

purposes. We cannot to-day follow this topic through. You recall the question of the purchase of Louisiana, and the questions of local government which its acquisition temporarily presented. Whatever has been said concerning them, one thing is certain! In the end no fundamental right guaranteed by the Constitution was diminished thereby. On the other hand, the borders have been extended within which its principles have effect. Washington, as you recollect, in his Farewell Address, deprecated a foreign policy for the United States as those words are commonly understood. Nothing in the Constitution, either in the preamble or the text, indicates anything more than a desire to secure internal happiness and prosperity, or any purpose of aggrandizement, or of impressing ourselves on other nations by force or diplomacy. Therefore, Washington laid down the cardinal principles to govern our relations to others, as follows:

"Observe good faith and justice towards all nations; cultivate peace and harmony with all. Religion and morality enjoin this conduct, and can it be that good policy does not equally enjoin it?"

He had especially in mind our relations with the nations across the Atlantic. Probably no part of that remarkable paper, which has impressed itself upon our people more than any other since the Constitution, sank deeper into the hearts of his fellow citizens than this caution against involving ourselves in the political entanglements of Europe. In 1823, George Canning, jealous of the Holy Alliance, desired to secure the co-operation of the United States to prevent the possibility of the aggrandizement of the Alliance by seizing portions of South America. In a conversation with our minister at London, he made suggestions which brought out in the

messages of President Monroe the declarations forming the basis of what is known as the "Monroe Doctrine." The Monroe Doctrine is, in a certain sense, the supplement of the cautions of Washington. "We will not interfere in the affairs of Europe, and Europe is not to interfere in ours." There was in this a rough equity: "You let us alone, and we will let you alone," which appealed strongly to the American heart; and, if there were anything which can be said to have been added to the Constitution, without going through the forms of an amendment, it was this.

The foreign policy thus developed was, indeed, outside of the purview of the letter of the Constitution, but it may well be accepted as within the spirit of its preamble, which declared that the purpose was to ensure domestic tranquility and to provide for the common defence. As we have already said, there is no doubt that the framers of the Constitution looked only to protecting and preserving what we had, and that they had no thought of aggrandizement. The slogan at the early part of the nineteenth century was: "Not one cent for tribute," and especially: "Millions for defence." It may justly be claimed that the acquisition of islands, alien to our habits, threaten to reverse the traditions of our government, as they have existed for more than a century; but, should these acquisitions, in practical experience, develop anything which permanently contradicts the fundamental rules which have guided the nation, the schooling of the past, especially the Constitutional victories won by Marshall, justify the expectation that we will seasonably throw it off.

Thus it was that our fathers planted deeply the tree of liberty, so that it stands, and ought to stand, firm and unshaken by the force of time. We invoke Bancroft:

"Never may its trunk be riven by the lightning, nor its branches crash each other in the maddening storm, nor its beauty wither, nor its root decay!" Nevertheless, nothing was ever truer than that the price of liberty is eternal vigilance. A half century ago Webster, Clay, Benton, Crittenden, Johnson, were denounced as "Union shriekers;" but Carl Schurz, in his eulogy on Sumner, points out with wonderful force how it was that the constancy of statesmen of that class, in stimulating a deep love for the Union, girded up the loins of our people, so that they met successfully the shock of the Rebellion. While we are boasting of the achievements of the nineteenth century, let us not forget that, beginning with the years of the Declaration of Independence, and closing with the years of the adoption of the Constitution, the eighteenth century gave mankind a boon far beyond anything which the era just closed has given it! Let us cherish this as the work of the most value to mankind, and of the most far reaching influence, since the great Reformation! Let us not forget that Gladstone declared the Constitution of the United States the greatest product of human genius struck out at a single blow! And let us strive unceasingly to infuse our generation with the study of it, and the love of it, remembering that, while Webster was the greatest of the later keepers of the light which shone out over the civilized world from the unpretentious hall at Philadelphia, Marshall was the first to shield it, so that ever since its radiance has been steady, strong and clear.

On motion of Mr. F. V. Chase of Portland,

Voted: That the thanks of this Association be tendered Judge Putnam for his able, interesting and valuable address.

On motion of Mr. H. R. Virgin of Portland,

Voted: That Judge Putnam be requested to allow his address to be printed with the proceedings of the Association.

On motion of Mr. L. T. Carleton, a committee of five was appointed to nominate a list of officers for the ensuing year, and the following were appointed by the chair:

Mr. Leroy T. Carleton, Mr. Charles F. Libby, Mr. Joseph E. Moore, Mr. L. M. Staples and Mr. F. I. Campbell.

The committee subsequently reported the following list of officers, all of whom were unanimously elected by ballot:

OFFICERS FOR 1901-1902.

President.

Wallace H. White, - -	Lewiston.

Vice-Presidents.

Joseph W. Symonds, - -	Portland.
Jos. C. Holman, - - -	Farmington.
A. M. Spear, - - -	Gardiner.

Secretary and Treasurer.

Leslie C. Cornish, - - -	Augusta.

Executive Committee.

Wm. T. Haines, - - -	Waterville.
F. E. Timberlake, - - -	Phillips.
Geo. M. Seiders, - - -	Portland.
A. S. Kimball, - - -	Norway.
Geo. C. Wing, - - -	Auburn.

Committee on Membership.

H. W. Oakes, - - -	Auburn.
Charles F. Daggett, - -	Presque Isle.
Albert S. Woodman, - -	Portland.
Elmer E. Richards, - -	Farmington.
Arno W. King, - - -	Ellsworth.
D. N. Mortland, - - -	Rockland.
Wm. H. Hilton, - - -	Damariscotta.
S. S. Brown, - - -	Waterville.
J. S. Wright, - - -	Paris.
Hugh R. Chaplin, - - -	Bangor.
W. E. Parsons, - - -	Foxcroft.
F. E. Southard, - - -	Bath.
Forrest Goodwin, - - -	Skowhegan.
Wm. P. Thompson, - -	Belfast.
L. H. Newcomb, - - -	Eastport.
Horace H. Burbank, - -	Saco.

Committee on Law Reform.

Charles F. Libby, - - -	Portland.
John A. Morrill, - - -	Auburn.
F. H. Appleton, - - -	Bangor.
Leroy T. Carleton, - - -	Winthrop.
A. S. Littlefield, - - -	Rockland.

Committee on Legal History.

Josiah H. Drummond, - -	Portland.
Joseph Williamson, - -	Belfast.
J. F. Sprague, - - -	Monson.
F. M. Drew, - - - -	Lewiston.
Charles W. Larrabee, - -	Bath.

Committee on Legal Education.

J. W. Mitchell, - - -	Auburn.
Louis C. Stearns, - - -	Caribou.

Committee on Legal Education (concluded).

F. C. Payson, - - -	Portland.
S. Clifford Belcher, - -	Farmington.
O. F. Fellows, - - -	Bucksport.
C. F. Johnson, - - -	Waterville.
Jos. E. Moore, - - -	Thomaston.
G. B. Kenniston, - - -	Boothbay [Harbor.
George A. Wilson, - - -	South Paris.
E. C. Ryder, - - - -	Bangor.
Henry Hudson, - - -	Guilford.
Jos. M. Trott, - - -	Bath.
George W. Gower, - -	Skowhegan.
R. F. Dunton, - - -	Belfast.
C. B. Donworth, - - -	Machias.
Hampden Fairfield. - -	Saco.

AMENDED BY-LAWS

OF THE

MAINE STATE BAR ASSOCIATION.

ARTICLE 1. MEMBERSHIP.

Members of the Bar in this State, shall be eligible to membership and shall be elected at any legal meeting, upon the nomination of the committee on membership.

ARTICLE 2. OFFICERS.

The officers of this association shall be a president, three vice-presidents, an executive committee, a committee on law reform, a committee on legal education and admission to the bar, a committee on legal history, a a secretary and a treasurer. All these officers shall be elected by ballot at the annual meeting and shall hold office until others are elected and qualified in their stead.

Other standing committees than those above specified may be provided by the association from time to time as may be found expedient.

ARTICLE 3. PRESIDENT.

The president, or in his absence, one of the vice-presidents, shall preside at all meetings of the association. The president shall be, *ex-officio*, a member of the executive committee.

ARTICLE 4. EXECUTIVE COMMITTEE.

The executive committee shall consist of four members beside the president. They shall have charge of the affairs of the association, make arrangements for meetings, order the disbursement of the funds of the association, audit its accounts, and have such other powers as

may be conferred on them by vote at any meeting of the association.

ARTICLE 5. COMMITTEE ON LAW REFORM.

The committee on Law Reform shall consist of five members. It shall be the duty of this committee to consider and report to the association such amendments of the law as should in their opinion be adopted; also to scrutinize proposed changes of the law, and when necessary, report upon the same; also to observe the practical working of the judicial system of the State and recommend by written or printed reports, from time to time, any changes therein which experience or observation may suggest.

ARTICLE 6. COMMITTEE ON LEGAL EDUCATION.

The committee on legal education shall consist of one member from each county represented in the association. Its duty shall be to prepare and report a system of legal education and for examination and admission to the practice of the profession in this State, and report from time to time such changes in the system of examination and admission as may be deemed advisable.

ARTICLE 7. COMMITTEE ON MEMBERSHIP.

The committee on membership shall consist of one member from each county represented in the association. All applications for membership shall be made to the member from the county where the applicant resides, if any, otherwise to any member of the committee. Applicants shall be nominated for membership by the concurrence of three members of this committee.

ARTICLE 8. COMMITTEE ON LEGAL HISTORY.

The committee on Legal History shall consist of so

many members as the association shall, from year to year, appoint.

Its duty shall be to provide for the preservation in the archives of the society, of the record of such facts relating to the history of the profession as may be of interest, and of suitable written or printed memorials of the lives and characters of distinguished members of the profession.

ARTICLE 9. SECRETARY.

The secretary shall keep the records of the association, have charge of its archives, and discharge such other duties as the association may require.

ARTICLE 10. TREASURER.

The treasurer shall collect and receive the dues of the association, keep and by order of the executive committee disburse its funds, and discharge such other duties as may pertain to his office. Any person may fill the office of both secretary and treasurer if elected thereto. A vacancy occurring in either of these offices may be filled by appointment of the executive committee.

ARTICLE 11. MEETINGS.

The annual meeting of the association shall be held on the second Wednesday of February, at such place in the city of Augusta in the years in which the legislature shall be in session, and in the alternate years at such city in the State and at such hour, as the executive committee may determine. Special meetings may be called by the president, on application in writing of five members, ten days' notice of which by mail shall be given to each member by the secretary, stating the object of the meeting. Fifteen members shall constitute a quorum at any meeting.

ARTICLE 12. ANNUAL DUES.

The annual dues shall be one dollar for each member, payable to the treasurer on or before the first day of June in each year.

Failure to pay the annual dues for two years in succession shall terminate the membership of the person in default.

ARTICLE 13. EXPULSION OF MEMBERS.

Any member may be expelled for misconduct, professional or otherwise, by a two-thirds vote of the members present at any meeting after proper notice of the charges; and all the interest of any member in the property of the association upon the termination of his membership, by expulsion, resignation or otherwise, shall thereupon vest absolutely in the association.

ARTICLE 14. AMENDMENTS.

These by-laws may be amended only by a two-thirds vote of the members present at an annual meeting of the association.

OFFICERS SINCE ORGANIZATION.

Presidents.

CHARLES F. LIBBY, Portland, 1891 to 1896.
HERBERT M. HEATH, Augusta, 1896 to 1897.
FRANKLIN A. WILSON, Bangor, 1897 to 1898.
CHARLES E. LITTLEFIELD, Rockland, 1898 to 1899.
WALLACE H. WHITE, Lewiston, 1899 to

Secretary and Treasurer.

LESLIE C. CORNISH, 1891 to

MEMBERS

OF THE

MAINE STATE BAR ASSOCIATION.

1900-1901.

Androscoggin County.

Tascus Atwood, - - -	Auburn.
W. W. Bolster, - - -	Auburn.
D. J. Callahan, - - -	Lewiston.
Seth M. Carter, - - -	Auburn.
J. G. Chabot, - - - -	Lewiston.
Franklin M. Drew, - -	Lewiston.
Willard F. Estey, - - -	Lewiston.
Nathan W. Harris, - -	Auburn.
P. H. Kelleher, - - -	Auburn.
Rogers P. Kelley, - - -	Auburn.
Jesse M. Libby, - - -	Mechanic Falls.
M. L. Lizotte, - - -	Lewiston.
F. E. Ludden, - - -	Auburn.
Harry Manser, - - -	Lewiston.
J. H. Maxwell, - - -	LivermoreFalls
George E. McCann, - -	Auburn.
J. W. Mitchell, - - -	Auburn.
John A. Morrill, - - -	Auburn.
Wm. H. Newell, - - -	Lewiston.
Henry W. Oakes, - - -	Auburn.
John L. Reade, - - -	Lewiston.
Herbert C. Royal, - - -	Auburn.
Fred N. Saunders, - - -	Lewiston.
W. B. Skelton, - - -	Lewiston.

A. E. Verrill, - - - -	Auburn.
Wallace H. White, - - -	Lewiston.
George C. Wing, - - -	Auburn.

Aroostook County.

James Archibald, - - -	Houlton.
Walter Cary, - - - -	Houlton.
Charles F. Daggett, - -	Presque Isle.
F. G. Dunn, - - - -	Ashland.
Bertram L. Fletcher, - -	Caribou.
Willis B. Hall, - - -	Caribou.
Ira G. Hersey, - - -	Houlton.
E. A. Holmes, - - -	Caribou.
Wallace R. Lumbert, - -	Caribou.
Frederick A. Powers, - -	Houlton.
Llewellyn Powers, - - -	Houlton.
Beecher Putnam, - - -	Houlton.
H. W. Safford, - - -	Mars Hill.
R. W. Shaw, - - - -	Houlton.
S. S. Thornton, - - -	Ashland.
Vinal B. Wilson, - - -	Houlton.

Cumberland County.

Arthur F. Belcher, - - -	Portland.
Geo. E. Bird, - - - -	Portland.
Albert W. Bradbury, - -	Portland.
Wilford G. Chapman, - -	Portland.
Frederick V. Chase, - -	Portland.
Albro E. Chase, - - -	Portland.
Wm. Henry Clifford, - -	Portland.
C. E. Clifford, - - -	W. Falmouth.
Charles S. Cook, - - -	Portland.
Liberty B. Dennett, - -	Portland.
James L. Doolittle, - -	Brunswick.
Morrill N. Drew, - - -	Portland.

Josiah H. Drummond, - -	Portland.
Josiah H. Drummond, Jr., -	Portland.
Isaac W. Dyer, - - -	Portland.
John H. Fogg, - - -	Portland.
James C. Fox, - - -	Portland.
M. P. Frank, - - -	Portland.
Eben W. Freeman, - - -	Portland.
Clarence Hale, - - -	Portland.
C. A. Hight, - - -	Portland.
Leroy S. Hight, - - -	Portland.
Hiram Knowlton, - - -	Portland.
W. J. Knowlton, - - -	Portland.
P. J. Larrabee, - - -	Portland.
Seth L. Larrabee, - - -	Portland.
C. Thornton Libby, - -	Portland.
Charles F. Libby, - -	Portland.
George Libby, - - -	Portland.
Ira S. Locke, - - -	Portland.
Jos. A. Locke, - - -	Portland.
Wm. H. Looney, - - -	Portland.
John J. Lynch, - - -	Portland.
Chas. P. Mattocks, - -	Portland.
John F. A. Merrill, - -	Portland.
Carroll W. Morrill, - -	Portland.
Wm. H. Motley, - - -	Woodfords.
Augustus F. Moulton, - -	Portland.
David E. Moulton, - - -	Portland.
George F. Noyes, - - -	Portland.
Irving W. Parker, - - -	Portland.
Franklin C. Payson, - -	Portland.
Henry C. Peabody, - -	Portland.
Barrett Potter, - - -	Brunswick.
Wm. L. Putnam, - - -	Portland.
George D. Rand, - - -	Portland.

Edward M. Rand, - - -	Portland.
Edward C. Reynolds, - -	Portland.
F. W. Robinson, - - -	Portland.
Clarence E. Sawyer, - -	Brunswick.
George M. Seiders, - -	Portland.
David W. Snow, - - -	Portland.
H. W. Swasey, - - -	Portland.
Joseph W. Symonds, - -	Portland.
Benj. Thompson, - - -	Portland,
Edward F. Tompson, - -	Portland.
Levi Turner, - - - -	Portland.
H. M. Verrill, - - -	Portland.
Harry R. Virgin, - - -	Portland.
Augustus H. Walker, - -	Bridgton.
F. S. Waterhouse, - - -	Limerick.
John A. Waterman, - -	Gorham.
Lindley M. Webb, - - -	Portland.
Richard Webb, - - -	Portland.
John Wells, - - - -	Portland.
John S. White, - - -	Naples.
Robert T. Whitehouse, - -	Portland.
Virgil C. Wilson, - - -	Portland.
Albert S. Woodman, - -	Portland.
Edward Woodman, - -	Portland.
- - -	Portland.

Franklin County.

S. Clifford Belcher, - -	Farmington.
Cyrus N. Blanchard, - -	Wilton.
Frank W. Butler, - - -	Farmington.
Joseph C. Holman, - -	Farmington.
N. P. Noble, - - -	Phillips.
Elmer E. Richards, - -	Farmington.
Philip H. Stubbs, - - -	Strong.

Josiah H. Thompson, - -	Farmington.
F. E. Timberlake, - - -	Phillips.

Hancock County.

Henry Boynton, - - -	Sullivan.
Wm. O. Buck, - - -	Bucksport.
F. Carroll Burrill, - - -	Ellsworth.
B. E. Clark, - - - -	Bar Harbor.
Edward S. Clark, - - -	Bar Harbor.
O. P. Cunningham, - -	Bucksport.
L. B. Deasy, - - - -	Bar Harbor.
Charles H. Drummey,* - -	Ellsworth.
O. F. Fellows, - - -	Bucksport.
E. Webster French, - -	S. W. Harbor.
Geo. R. Fuller, - - -	S. W. Harbor.
L. F. Giles, - - - -	Ellsworth.
Hannibal E. Hamlin, - -	Ellsworth.
John T. Higgins, - - -	Bar Harbor.
A. W. King, - - - -	Ellsworth.
John A. Peters, 2nd, - -	Ellsworth.
E. P. Spofford, - - -	Deer Isle.
B. E. Tracy, - - - -	Winter Harbor.
Geo. M. Warren, - - -	Castine.
Chas. H. Wood, - - -	Bar Harbor.

Kennebec County.

E. C. Ambrose, - - -	Readfield.
Charles L. Andrews, - -	Augusta.
Orville D. Baker, - - -	Augusta.
Norman L. Bassett, - -	Augusta.
Emery O. Bean, - - -	Readfield.
Geo. K. Boutelle, - - -	Waterville.
James W. Bradbury,* - -	Augusta.
F. E. Brown, - - - -	Waterville.

*Deceased.

Simon S. Brown,	Waterville.
Lewis A. Burleigh,	Augusta.
Leroy T. Carleton,	Winthrop.
Leonard D. Carver,	Augusta.
Winfield S. Choate,	Augusta.
F. W. Clair,	Waterville.
Leslie C. Cornish,	Augusta.
Harvey D. Eaton,	Waterville.
Geo. W. Field,	Oakland.
W. H. Fisher,	Augusta.
Eugene S. Fogg,	Augusta.
Dana P. Foster,	Waterville.
H. E. Foster,	Winthrop.
A. M. Goddard,	Augusta.
Wm. T. Haines,	Waterville.
Herbert M. Heath,	Augusta.
Geo. W. Heselton,	Gardiner.
Melvin S.Holway,	Augusta.
C. F. Johnson,	Waterville.
Treby Johnson,	Augusta.
Samuel W. Lane,	Augusta.
Thomas Leigh,	Augusta.
Thomas J. Lynch,	Augusta.
Joseph H. Manley,	Augusta.
Benedict F. Maher,	Augusta.
John McCarty,	Clinton.
W. L. McFadden,	Augusta.
George S. Paine,	Winslow.
Arthur L. Perry,	Gardiner.
Warren C. Philbrook,	Waterville.
F. K. Shaw,	Waterville.
Albert M. Spear,	Gardiner.
G. T. Stevens,	Augusta.
Asbury C. Stilphen,	Gardiner.

Lendall Titcomb, - - -	Augusta.
Henry S. Webster, - -	Gardiner.
Joseph Williamson, Jr., - -	Augusta.

Knox County.

Alex. A. Beaton, - - -	Rockland.
Edw. K. Gould, - - -	Rockland.
G. M. Hicks, - - -	Rockland.
Arthur S. Littlefield, - -	Rockland.
Charles E. Littlefield, - -	Rockland.
J. H. Montgomery, - -	Camden.
Joseph E. Moore, - - -	Thomaston.
David N. Mortland, - -	Rockland.
True P. Pierce, - - -	Rockland.
Reuel Robinson, - - -	Camden.
L. M. Staples, - - -	Washington.
Frederick S. Walls, - -	Vinal Haven.

Lincoln County.

Ozro D. Castner, - - -	Waldoboro.
Everett Farrington, - -	Waldoboro.
Emerson Hilton, - - -	Wiscasset.
Wm. H. Hilton, - - -	Damariscotta.
G. B. Kenniston, - - -	Boothbay [Harbor.
Geo. B. Sawyer, - - -	Wiscasset.

Oxford County.

P. C. Fickett, - - -	West Paris.
Seth W. Fife, - - -	Fryeburg.
E. F. Gentleman, - - -	Porter.
A. E. Herrick, - - -	Bethel.
Alfred S. Kimball, - -	Norway.
Charles A. Mendall, - -	Canton.
George A. Wilson, - -	South Paris.
J. S. Wright, - - -	South Paris.

Penobscot County.

B. C. Additon,	Bangor.
Frederick H. Appleton,	Bangor.
Charles A. Bailey,	Bangor.
Victor Brett,	Bangor.
James H. Burgess,	Bangor.
Hugh R. Chaplin,	Bangor.
W. C. Clark,	Lincoln.
Milton S. Clifford,	Bangor.
Josiah Crosby,	Dexter.
J. Willis Crosby,	Dexter.
Charles Davis,	Bangor.
P. H. Gillin,	Bangor.
Joseph F. Gould,	Old Town.
Charles Hamlin,	Bangor.
Henry P. Haynes,	East Corinth.
M. Laughlin,	Bangor.
Forrest J. Martin,	Bangor.
John R. Mason,	Bangor.
Alanson J. Merrill,	Bangor.
Henry L. Mitchell,	Bangor.
F. H. Parkhurst,	Bangor.
H. H. Patten,	Bangor.
Wm. B. Peirce,	Bangor.
T. H. B. Pierce,	Dexter.
S. T. Plummer,	Dexter.
W. H. Powell,	Old Town.
Allen E. Rogers,	Orono.
Erastus C. Ryder,	Bangor.
James M. Sanborn,	Newport.
Clarence Scott,	Old Town.
George T. Sewall,	Old Town.
Bertram L. Smith,	Patten.
Ruel Smith,	Bangor.

Thos. W. Vose, - - -	Bangor.
Peregrine White, - - -	Bangor.
F. J. Whiting, - - -	Old Town.
Franklin A. Wilson, - -	Bangor.
Charles F. Woodard, - -	Bangor.

Piscataquis County.

Calvin W. Brown, - - -	Dover.
Frank E. Guernsey, - -	Dover.
Henry Hudson, - - -	Guilford.
M. W. McIntosh, - - -	Brownville.
Willis E. Parsons, - -	Foxcroft.
Joseph B. Peaks, - - -	Dover.
John F. Sprague, - - -	Monson.

Sagadahoc County.

Arthur J. Dunton, - - -	Bath.
Sanford L. Fogg, - - -	Bath.
Wm. T. Hall, - - -	Richmond.
Wm. T. Hall, Jr., - -	Bath.
George E. Hughes, - -	Bath.
Charles W. Larrabee, - -	Bath.
Charles D. Newell, - -	Richmond.
John Scott, - - - -	Bath.
Frank E. Southard, - -	Bath.
Franklin P. Sprague, - -	Bath.
Frank L. Staples, - - -	Bath.
Joseph M. Trott, - - -	Bath.

Somerset County.

Turner Buswell, - - -	Solon.
George M. Chapman, - -	Fairfield.
Abel Davis, - - - -	Pittsfield.
Forrest Goodwin, - - -	Skowhegan.
George W. Gower, - -	Skowhegan.

Daniel Lewis, - - -	Skowhegan.
John W. Manson. - -	Pittsfield.
E. N. Merrill. - - -	Skowhegan.
F. E. McFadden, - - -	Fairfield.
Augustine Simmons. - -	No. Anson.
C. O. Small, - - - -	Madison.
Daniel Steward, - - -	No. Anson.
L. L. Walton, - - -	Skowhegan.
George G. Weeks, - -	Fairfield.

Waldo County.

Ellery Bowden. - - -	Winterport.
Fred W. Brown. - - -	Belfast.
R. F. Dunton, - - -	Belfast.
George E. Johnson. - -	Belfast.
Wm. P. Thompson, - -	Belfast.
Joseph Williamson, - -	Belfast.

Washington County.

James M. Beckett, - - -	Calais.
F. I. Campbell, - - -	Cherryfield.
Clement B. Donworth, - -	Machias.
George R. Gardner, - -	Calais.
H. H. Gray, - - - -	Millbridge.
Samuel D. Leavitt,* - -	Eastport.
F. B. Livingstone. - -	Calais.
J. H. McFaul, - - -	Eastport.
I. G. McLarren, - - -	Eastport.
B. B. Murray, - - -	Pembroke.
L. H. Newcomb, - - -	Eastport.
Charles Peabody, - - -	Millbridge.
B. Rogers, - - - -	Pembroke.

* Deceased.

York County.

Fred J. Allen, - - -	Sanford.
Horace H. Burbank, - -	Saco.
John B. Donovan, - - -	Alfred.
Walter H. Downs, - - -	So. Berwick.
George A. Emery, - - -	Saco.
Geo. D. Emery, - - -	E. Lebanon.
Willis T. Emmons, - -	Saco.
Hampden Fairfield, - -	Saco.
George A. Goodwin, - -	Springvale.
John M. Goodwin, - -	Biddeford.
F. W. Guptill, - - -	Saco.
George W. Hanson, - -	Sanford.
Frank M. Higgins, - -	Limerick.
Nathaniel Hobbs, - - -	No. Berwick.
Luther R. Moore, - - -	Saco.
W. P. Perkins, - - -	Cornish.
Charles H. Prescott, - -	Biddeford.
Moses A. Safford, - - -	Kittery.
John C. Stewart, - - -	York Village.
Charles E. Weld,* - -	West Buxton.

* Deceased.

PROCEEDINGS

OF THE

ELEVENTH ANNUAL MEETING

OF THE

MAINE STATE BAR ASSOCIATION

HELD AT

BANGOR, MAINE, FEBRUARY 19, 1902.

AUGUSTA:
PRESS OF CHARLES E. NASH.
1902.

PROCEEDINGS

OF THE

ELEVENTH ANNUAL MEETING

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MAINE STATE BAR ASSOCIATION

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BANGOR, MAINE, FEBRUARY 19, 1902.

AUGUSTA:
PRESS OF CHARLES E. NASH.
1902.

Office of Secretary of
Maine State Bar Association.

AUGUSTA, MAINE, FEBRUARY 1, 1902.

DEAR SIR:

The eleventh annual meeting of the MAINE STATE BAR ASSOCIATION will be held at the Banquet Hall at the City Library Building, Bangor, on Wednesday, February 19th, at 2.30 o'clock, P. M.

The order of business will be as follows:

1. *Report of Secretary and Treasurer.*
2. *Reports of Committees.*
3. *Election of Officers.*
4. *Miscellaneous Business.*

It has been deemed best this year to omit the annual dinner and have simply a business session.

Per order,

LESLIE C. CORNISH,

Secretary.

Maine State Bar Association.

ELEVENTH ANNUAL MEETING.

BANGOR, MAINE, February 19, 1902.

In accordance with the foregoing call which was duly sent to each member of the Association in accordance with the by-laws, the eleventh annual meeting of the Maine State Bar Association was held at the City Hall Building, Bangor, Maine, on Wednesday, February 19, at 2.30 o'clock, P. M.

The meeting was called to order by the President of the Association, Honorable Wallace H. White of Lewiston.

The call for the meeting was read by the Secretary.

The records of the last meeting were read and approved.

The Treasurer submitted his annual report.

TREASURER'S REPORT.

AUGUSTA, MAINE, February 19, 1902.

LESLIE C. CORNISH, Treasurer, in account with the MAINE STATE BAR ASSOCIATION for the year ending February 12, 1902.

DR.

To cash balance from preceding year,	$73.69	
" received for 34 dinner tickets at $3.00 each,	102.00	
received from dues during the year,	200.00	
		$375.69

CR.

By cash paid dinner expenses,	$122.65	
400 envelopes for reports, No. 40,	1.20	
stamps, No. 41,	6.50	
salary Secretary and Treasurer, No. 42,	100.00	
stamps, No. 43,	5.50	
cartage of Report, No. 44,	.50	
150 postals, No. 45,	1.50	
Chas. E. Nash, printing Reports, cards, notices, circulars, etc.,	60.00	
Cash in bank to balance,	77.84	
		$375.69

Mr. O. F. Fellows of Bucksport was appointed auditor to examine the report. Mr. Fellows subsequently reported the correctness of the account and the same was ordered to be placed on file.

Messrs. Chas. F. Woodard of Bangor, Hugh R. Chaplin of Bangor, E. C. Ryder of Bangor, O. F. Fellows of Bucksport and B. L. Fletcher of Bangor, were appointed a committee to nominate officers for the ensuing year.

The names of Charles J. Dunn of Orono and Terence B. Towle of Bangor, were presented for membership and these gentlemen were duly elected.

The President read the following communication in regard to procedure in jury cases and expert testimony:

To the President of the Maine State Bar Association,

DEAR SIR: I deem it the duty of every lawyer to call attention to what seems to me to be imperfections in the law and in procedure, and to make some effort for their elimination or amelioration. I desire in this way to call attention of the profession to two evils, which it seems to me can and should be ameliorated.

1. Under our present procedure as to jury trials, nearly every case in which either party desires a judgment is put upon the jury trial list on the call of the docket the first day of their term, although it is well known to the parties there will, in many of them be no jury trial. The result is, that at the close of the call of the docket there will often be from fifty to one hundred cases on the jury trial list. The presiding justice and the Bar will know from experience that usually not over ten or fifteen per cent of those will be tried or are expected to be tried, but the others are all there confusing and blocking the path of such as are to be tried. It is almost impossible to so assign cases, that on the one hand no time of the Court and jury will be lost, and on the other that parties being in readiness on the day assigned will not have to wait at loss of time and money of theirs for other cases ahead to be finished. This is an evil. The valuable time of the

court and jury should not be wasted at the public expense nor should parties be kept in expensive attendance awaiting their turn.

I think that the evil could be much ameliorated by some process of winnowing, so that the jury list when made up should contain only those cases for actual trial. These would be very few and could be examined as to character and probable length of the trial, and could be much more conveniently assigned.

Again, under this same head I think many cases are tried with a jury that need not be, and should not be, such as cases of account, and small actions involving no principle but only a few dollars in the way of debt or damage. Most of these cases go to a jury because the defendant is wilful and wants to make trouble and expense. This is expensive for the parties and consumes the time of the court and the delay of really important cases suitable for a jury. There, again, a winnowing process, by which parties in such cases should be required to make some special claim beforehand for a jury, would eliminate many of them because in such cases the parties would not take the trouble to place them on the jury list unless there was actual reason for an actual jury trial.

I suggest the following winnowing process which has been tried in other States with good results. Enact a statute to this effect, viz: whenever a plaintiff claims a jury trial, he shall file a written request therefor with the clerk, not less than one or more than five days after the entry of the action, and shall deposit therewith with the clerk a jury fee of one dollar. If the plaintiff has not thus requested a jury trial and the defendant desires one, he shall file a similar request not less than one nor more than five days after entering his appearance and also

deposit a jury fee of one dollar. If neither party has thus asked a jury trial, such trial to be considered waived and the case to be heard by the court. Only cases in which jury trials have been thus requested shall be placed upon the jury list.

The effect of such a statute in other states has been that only a few cases like those for injuries from negligence or trespass, and those involving questions of boundary line, etc., are placed on the jury list. A Connecticut judge has told me that in his court, now, hardly anything is tried to a jury except cases of negligence or trespass to the person.

Of course the detail of the statute can be varied. The object to be attained is to prevent a case being marked for a jury trial, or a jury trial requested as a matter of course or routine. If it may be asked for by indorsement on the writ or on the day of the appearance, blanks for that purpose will soon be printed and in every case a jury trial will be asked. The request should be made at some other seasonable time. The small fee of one dollar would be a bagatelle in any case where a jury trial was appropriate, but it would keep off the jury list all mere collection cases, and all matters where the questions were mainly of law. The trouble with the old jury fee was that the defendant could make the plaintiff pay it, and thus could bluff him off into a settlement. Let him pay the small fee who wants the machinery of a jury, and recover it on his costs if he wins.

I am confident some such statute would thin out the jury list saving much time and expense to parties and the public. Then at the beginning of a term we should know much better what cases were to be actually tried, and could make assignments more easily and accurately.

II. Another and crying evil is the matter of expert witnesses. They have become enormously expensive, and have now become almost professional witnesses, and by their contradictions and partisanship, they darken counsel and have lost their credit. Even where they are agreed, they are not always believed. Two men have been recently convicted of murder in Maine where all the experts without exception, and eminent ones at that, declared the men undoubtedly insane. In state cases enormous fees are demanded and the whole matter has become a scandal. For a remedy I suggest an adaptation of the method so long practised in cases of disputed lines, etc., where a surveyor is appointed by the court, who makes the examinations desired by either party, makes his report, and then testifies and is cross-examined. It is open to either party to call other surveyors, but in fact they rarely do, and the court appointee gives all the testimony as to surveys, etc. I cannot see any objection to a statute authorizing the court to appoint one or more experts, medical or any other kind, to investigate any matters requiring special knowledge. Upon motion of the court stating the case and the subject matter requiring expert investigation, the court could hear both sides, and, as in the case of surveyors, could usually find the parties agreeing upon the names of the experts to be appointed. If not, the court could find some disinterested expert in whom he had confidence.

The expert, or experts, so appointed could then make their examination and researches entirely without bias, as appointees of the court and not as employeés of either side.

If more than one, they could confer and compare notes, and correct each other. They could then testify in the matter without desire to please an employer. Either side

could request particular examinations and submit questions to be considered. It also would be open to either party to employ other *ex parte* experts to make examinations, etc., and testify.

Such a statute would deprive no one of any right. He could still fool with the present system to his heart's content, but I predict parties would not do so long. The testimony of the official experts, the unbiased appointees of the court would be seen to be the only testimony having much weight. Court and jury would be more impressed by that, and before long they would be practically the only expert witnesses, as in land cases, the court surveyor is usually the only surveyor called. In any event, the testimony of a court appointee would be a great boon to court and jury. There would be greater chance that the very truth of the matter would influence the verdict. The greatest evil of the present system, bias and partisanship at least, would be eliminated. The evidence would have less of that taint.

The more intelligent and reputable physicians desire some such legislation as above suggested. They are mortified and scandalized at the present repute of medical expert evidence, and desire something to be done to make it respectable.

I would be glad if you would in some way bring the above matters before the Bar Association and the profession as all lawyers are vitally interested in them.

ONE WHO HAS SUFFERED.

January 1, 1902.

Voted: That the communication be referred to the Committee on Law Reform.

Voted: That the question of the advisability of holding the meetings of the Association in the summer instead of the winter be referred to the executive committee with instructions to report at the next annual meeting.

Gen. Chas. Hamlin of Bangor presented the following resolution which was unanimously adopted:

"The State Bar Association has learned with profound sorrow of the sudden death of Mr. Justice Fogler at his home in Rockland on Tuesday of this week.

"They desire to express their deep sense of the loss to the Bench and Bar of a judge who has endeared himself to all by his achievements at the Bar and on the Bench, as a patriotic citizen, and a noble representative of Maine citizen soldiers who gave a gallant service to her country on many battle fields during the Civil War of the Rebellion."

Mr. Woodard from the committee to nominate officers for the ensuing year, made the following report which was accepted, and the following officers were unanimously elected by ballot.

OFFICERS FOR 1902-1903.

President.

Joseph W. Symonds, - -	Portland.

Vice-Presidents.

Jos. C. Holman, - - -	Farmington.
A. M. Spear, - - - -	Gardiner.
L. B. Deasy, - - - -	Bar Harbor.

Secretary and Treasurer.

Leslie C. Cornish, - - -	Augusta.

Executive Committee.

Wm. T. Haines, - - -	Waterville.
F. E. Timberlake, - - -	Phillips.
Geo. M. Seiders, - - -	Portland.
A. S. Kimball, - - -	Norway.
George C. Wing, - - -	Auburn.

Committee on Membership.

H. W. Oakes, - - -	Auburn.
Charles F. Daggett, - -	Presque Isle.
Albert S. Woodman, - -	Portland.
Elmer E. Richards, . - -	Farmington.
Arno W. King, - - -	Ellsworth.
D. N. Mortland, - - -	Rockland.
Wm. H. Hilton, - - -	Damariscotta.
S. S. Brown, - - - -	Waterville.
J. S. Wright, - - -	Paris.
Hugh R. Chaplin, - - -	Bangor.
W. E. Parsons, - - -	Foxcroft.
F. E. Southard, - - -	Bath.
Forrest Goodwin, - - -	Skowhegan.
Wm. P. Thompson, - -	Belfast.
L. H. Newcomb, - - -	Eastport.
Horace H. Burbank, - -	Saco.

Committee on Law Reform.

Charles F. Libby, - - -	Portland.
John A. Morrill, - - -	Auburn.
F. H. Appleton, - - -	Bangor.
Leroy T. Carleton, - - -	Winthrop.
A. S. Littlefield, - - -	Rockland.

Committee on Legal History.

A. W. King, - - - -	Ellsworth.

W. C. Philbrook, - - -	Waterville.
Peregrine White, - - -	Bangor.
Barrett Potter, - - -	Brunswick.
A. F. Moulton, - - -	Portland.

Committee on Legal Education.

J. W. Mitchell, - - -	Auburn.
Louis C. Stearns, - - -	Caribou.
F. C. Payson, - - - -	Portland.
S. Clifford Belcher, - -	Farmington.
O. F. Fellows, - - -	Bucksport.
C. F. Johnson, - - -	Waterville.
Jos. E. Moore, - - -	Thomaston.
George B. Kenniston, - -	Boootbay [Harbor.
George A. Wilson, - - -	South Paris.
E. C. Ryder, - - - -	Bangor.
Henry Hudson, - - -	Guilford.
Jos. M. Trott, - - - -	Bath.
George W. Gower, - - -	Skowhegan.
R. F. Dunton, - - -	Belfast.
C. B. Donworth, - - -	Machias.
Hampden Fairfield, - - -	Saco.

AMENDED BY-LAWS

OF THE

MAINE STATE BAR ASSOCIATION.

ARTICLE 1. MEMBERSHIP.

Members of the Bar in this State, shall be eligible to membership and shall be elected at any legal meeting, upon the nomination of the committee on membership.

ARTICLE 2. OFFICERS.

The officers of this association shall be a president, three vice-presidents, an executive committee, a committee on law reform, a committee on legal education and admission to the bar, a committee on legal history, a secretary and a treasurer. All these officers shall be elected by ballot at the annual meeting and shall hold office until others are elected and qualified in their stead.

Other standing committees than those above specified may be provided by the association from time to time as may be found expedient.

ARTICLE 3. PRESIDENT.

The president, or in his absence, one of the vice-presidents, shall preside at all meetings of the association. The president shall be, *ex-officio*, a member of the executive committee.

ARTICLE 4. EXECUTIVE COMMITTEE.

The executive committee shall consist of four members beside the president. They shall have charge of the affairs of the association, make arrangements for meet-

ings, order the disbursement of the funds of the association, audit its accounts, and have such other powers as may be conferred on them by vote at any meeting of the association.

ARTICLE 5. COMMITTEE ON LAW REFORM.

The committee on Law Reform shall consist of five members. It shall be the duty of this committee to consider and report to the association such amendments of the law as should in their opinion be adopted; also to scrutinize proposed changes of the law, and when necessary, report upon the same; also to observe the practical working of the judicial system of the State and recommend by written or printed reports, from time to time, any changes therein which experience or observation may suggest.

ARTICLE 6. COMMITTEE ON LEGAL EDUCATION.

The committee on legal education shall consist of one member from each county represented in the association. Its duty shall be to prepare and report a system of legal education and for examination and admission to the practice of the profession in this State, and report from time to time such changes in the system of examination and admission as may be deemed advisable.

ARTICLE 7. COMMITTEE ON MEMBERSHIP.

The committee on membership shall consist of one member from each county represented in the association. All applications for membership shall be made to the member from the county where the applicant resides, if any, otherwise to any member of the committee. Applicants shall be nominated for membership by the concurrence of three members of this committee.

Article 8. Committee on Legal History.

The committee on Legal History shall consist of so many members as the association shall, from year to year, appoint.

Its duty shall be to provide for the preservation in the archives of the society, of the record of such facts relating to the history of the profession as may be of interest, and of suitable written or printed memorials of the lives and characters of distinguished members of the profession.

Article 9. Secretary.

The secretary shall keep the records of the association, have charge of its archives, and discharge such other duties as the association may require.

Article 10. Treasurer.

The treasurer shall collect and receive the dues of the association, keep and by order of the executive committee disburse its funds, and discharge such other duties as may pertain to his office. Any person may fill the office of both secretary and treasurer if elected thereto. A vacancy occurring in either of these offices may be filled by appointment of the executive committee.

Article 11. Meetings.

The annual meeting of the association shall be held on the second Wednesday of February, at such place in the city of Augusta in the years in which the legislature shall be in session, and in the alternate years at such city in the State and at such hour, as the executive committee may determine. Special meetings may be called by the president, on application in writing of five members, ten days' notice of which by mail shall be given to each member by the secretary, stating the object of the meeting. Fifteen members shall constitute a quorum at any meeting.

Article 12. Annual Dues.

The annual dues shall be one dollar for each member, payable to the treasurer on or before the first day of June in each year.

Failure to pay the annual due for two years in succession shall terminate the membership of the person in default.

Article 13. Expulsion of Members.

Any member may be expelled for misconduct, professional or otherwise, by a two-thirds vote of the members present at any meeting after proper notice of the charges; and all the interest of any member in the property of the association upon the termination of his membership, by expulsion, resignation or otherwise, shall thereupon vest absolutely in the association.

Article 14. Amendments.

These by-laws may be amended only by a two-thirds vote of the members present at an annual meeting of the association.

OFFICERS SINCE ORGANIZATION.

Presidents.

Charles W. Libby, Portland, 1891 to 1896.
Herbert M. Heath, Augusta, 1896 to 1897.
Franklin A. Wilson, Bangor, 1897 to 1898.
Charles E. Littlefield, Rockland, 1898 to 1899.
Wallace H. White, Lewiston, 1899 to 1902.
Jos. W. Symonds, Portland, 1902 to

Secretary and Treasurer.

Leslie C. Cornish, 1891 to

MEMBERS

OF THE

MAINE STATE BAR ASSOCIATION.
1901-1902.

Androscoggin County.

Tascus Atwood,	Auburn.
W. W. Bolster,	Auburn.
D. J. Callahan,	Lewiston.
Seth M. Carter,	Auburn.
J. G. Chabot,	Lewiston.
Franklin M. Drew,	Lewiston.
Willard F. Estey,	Lewiston.
Nathan W. Harris,*	Auburn.
P. H. Kelleher,	Auburn.
Rogers P. Kelley,	Auburn.
Jesse M. Libby,	Mechanic Falls.
M. L. Lizotte,	Lewiston.
F. E. Ludden,	Auburn.
Harry Manser,	Lewiston.
J. H. Maxwell,	LivermoreFalls.
George E. McCann,	Auburn.
J. W. Mitchell,	Auburn.
John A. Morrill,	Auburn.
Wm. H. Newell,	Lewiston.
Henry W. Oakes,	Auburn.

*Deceased.

John L. Reade, - - -	Lewiston.
Herbert C. Royal, - - -	Auburn.
Fred N. Saunders, - - -	Lewiston.
W. B. Skelton, - - -	Lewiston.
A. E. Verrill, - - - -	Auburn.
Wallace H. White, - - -	Lewiston.
George C. Wing, - - -	Auburn.

Aroostook County.

James Archibald, - - -	Houlton.
Walter Cary, - - - -	Houlton.
Charles F. Daggett, - - -	Presque Isle.
F. G. Dunn, - - - -	Ashland.
Bertram L. Fletcher, - -	Caribou.
Willis B. Hall, - - -	Caribou.
Ira G. Hersey, - - -	Houlton.
E. A. Holmes, - - -	Caribou.
Wallace R. Lumbert, - -	Caribou.
Frederick A. Powers, - -	Houlton.
Llewellyn Powers, - - -	Houlton.
Beecher Putnam, - - -	Houlton.
H. W. Safford, - - -	Mars Hill.
R. W. Shaw, - - -	Houlton.
S. S. Thornton, - - -	Ashland.

Cumberland County.

Arthur F. Belcher, - - -	Portland.
George E. Bird, - - -	Portland.
Wilford G. Chapman, - -	Portland.
Frederick V. Chase, - -	Portland.
Albro E. Chase, - - -	Portland.
Wm. Henry Clifford, - -	Portland.
C. E. Clifford, - - -	W. Falmouth.
Charles S. Cook, - - -	Portland.

Liberty B. Dennett,	Portland.
James L. Doolittle,	Brunswick.
Morrill N. Drew,	Portland.
Josiah H. Drummond,*	Portland.
Josiah H. Drummond, Jr.,	Portland.
Isaac W. Dyer,	Portland.
John H. Fogg,	Portland.
James C. Fox,	Portland.
M. P. Frank,	Portland.
Eben W. Freeman,	Portland.
Clarence Hale,	Portland.
C. A. Hight,	Portland.
Leroy S. Hight,	Portland.
Hiram Knowlton,	Portland.
W. J. Knowlton,	Portland.
P. J. Larrabee,	Portland.
Seth L. Larrabee,	Portland.
C. Thornton Libby,	Portland.
Charles F. Libby,	Portland.
George Libby,	Portland.
Ira S. Locke,	Portland.
Jos. A. Locke,	Portland.
Wm. H. Looney,	Portland.
John J. Lynch,	Portland.
Chas. P. Mattocks,	Portland.
John F. A. Merrill,	Portland.
Carroll W. Morrill,	Portland.
Wm. H. Motley,	Woodfords.
Augustus F. Moulton,	Portland.
David E. Moulton,	Portland.
George F. Noyes,	Portland.
Irving W. Parker,	Portland.

*Deceased.

Franklin C. Payson,	Portland.
Barrett Potter,	Brunswick.
Wm. L. Putnam,	Portland.
George D. Rand,	Portland.
Edward M. Rand,	Portland.
Edward C. Reynolds,	Portland.
F. W. Robinson,	Portland.
Clarence E. Sawyer,	Brunswick.
George M. Seiders,	Portland.
David W. Snow,	Portland.
H. W. Swasey,	Portland.
Joseph W. Symonds,	Portland.
Benj. Thompson,	Portland,
Edward F. Tompson,	Portland.
Levi Turner,	Portland.
H. M. Verrill,	Portland.
Harry R. Virgin,	Portland.
Augustus H. Walker,	Bridgton.
F. S. Waterhouse,	Limerick.
John A. Waterman,	Gorham.
Lindley M. Webb,	Portland.
Richard Webb,	Portland.
John Wells,	Portland.
John S. White,	Naples.
Robert T. Whitehouse,	Portland.
Virgil C. Wilson,	Portland.
Albert S. Woodman,	Portland.
Edward Woodman,	Portland.

Franklin County.

S. Clifford Belcher,	Farmington.
Cyrus N. Blanchard,	Wilton.
Frank W. Butler,	Farmington.

E. O. Greenleaf, - - -	Farmington.
Joseph C. Holman, - -	Farmington.
N. P. Noble, - - -	Phillips.
Elmer E. Richards, - -	Farmington.
Philip H. Stubbs, - - -	Strong.
Josiah H. Thompson, - -	Farmington.
F. E. Timberlake, - - -	Phillips.

Hancock County.

Henry Boynton, - - -	Sullivan.
Wm. O. Buck, - - -	Bucksport.
F. Carroll Burrill, - - -	Ellsworth.
B. E. Clark, - - - -	Bar Harbor.
Edward S. Clark, - - -	Bar Harbor.
O. P. Cunningham, - -	Bucksport.
L. B. Deasy, - - - -	Bar Harbor.
O. F. Fellows, - - -	Bucksport.
E. Webster French, - -	S. W. Harbor.
Geo. R. Fuller, - - -	S. W. Harbor.
L. F. Giles, - - - -	Ellsworth.
Hannibal E. Hamlin, - -	Ellsworth.
John T. Higgins, - - -	Bar Harbor.
A. W. King, - - - -	Ellsworth.
John A. Peters, 2nd, - -	Ellsworth.
E. P. Spofford, - - -	Deer Isle.
B. E. Tracy, - - - -	Winter Harbor.
Geo. M. Warren, - - -	Castine.
Chas. H. Wood, - - -	Bar Harbor.

Kennebec County.

E. C. Ambrose, - - -	Readfield.
Charles L. Andrews, - -	Augusta.
Orville D. Baker, - - -	Augusta.
Norman L. Bassett, - -	Augusta.

Emery O. Bean,	Readfield.
Geo. K. Boutelle,	Waterville.
F. E. Brown,	Waterville.
Simon S. Brown,	Waterville.
Lewis A. Burleigh,	Augusta.
Leroy T. Carleton,	Winthrop.
Leonard D. Carver,	Augusta.
Winfield S. Choate,	Augusta.
F. W. Clair,	Waterville.
Leslie C. Cornish,	Augusta.
Harvey D. Eaton,	Waterville.
Geo. W. Field,	Oakland.
W. H. Fisher,	Augusta.
Eugene S. Fogg,	Augusta.
Dana P. Foster,	Waterville.
H. E. Foster,	Winthrop.
A. M. Goddard,	Augusta.
Wm. T. Haines,	Waterville.
Herbert M. Heath,	Augusta.
Geo. W. Heselton,	Gardiner.
Melvin S. Holway,	Augusta.
C. F. Johnson,	Waterville.
Treby Johnson,	Augusta.
Samuel W. Lane,	Augusta.
Thomas Leigh,	Augusta.
Thomas J. Lynch,	Augusta.
Joseph H. Manley,	Augusta.
Benedict F. Maher,	Augusta.
W. L. McFadden,	Augusta.
Arthur L. Perry,	Gardiner.
Warren C. Philbrook,	Waterville.
F. K. Shaw,	Waterville.
Albert M. Spear,	Gardiner.

G. T. Stevens, - - -	Augusta.
Asbury C. Stilphen, - -	Gardiner.
Lendall Titcomb, - - -	Augusta.
Henry S. Webster, - - -	Gardiner.
Joseph Williamson, Jr., - -	Augusta.

Knox County.

Alex. A. Beaton, - - -	Rockland.
Edw. K. Gould. - - -	Rockland.
Arthur S. Littlefield, - -	Rockland.
Charles E. Littlefield, - -	Rockland.
J. H. Montgomery, - - -	Camden.
Jos. E. Moore, - - -	Thomaston.
David N. Mortland, - -	Rockland.
Reuel Robinson, - - -	Camden.
L. M. Staples, - - -	Washington.
Frederick S. Walls, - -	Vinal Haven.

Lincoln County.

Ozro D. Castner, - - -	Waldoboro.
Everett Farrington, - -	Waldoboro.
Emerson Hilton, - - -	Wiscasset.
Wm. H. Hilton, - - -	Damariscotta.
G. B. Kenniston, - - -	Boothbay [Harbor.
Geo. B. Sawyer, - - -	Wiscasset.

Oxford County.

P. C. Fickett, - - - -	West Paris.
Seth W. Fife, - - -	Fryeburg.
A. E. Herrick, - - -	Bethel.
Alfred S. Kimball, - - -	Norway.
Charles A. Mendall, - -	Canton.
George A. Wilson, - -	South Paris.
J. S. Wright, - - -	South Paris.

"limited times" it provides for "*securing* to authors and inventors the exclusive right to their respective writings and discoveries." It is the "*securing*" of an existing right and not the creation of a new one for which it makes provision. A corollary to this proposition is that the law shall liberally protect and not fetter, hamper, or by possibility defeat, the right. The framers of the Constitution were fully conversant with the English interpretation. This is merely saying what Mr. Justice Miller said in Lithograph Co. *v.* Sarony,[12] one hundred years later: "Nor is it to be supposed that the framers of the Constitution did not understand the nature of copyright and the objects to which it was commonly applied, for copyright, as the exclusive right of a man to the production of his own genius or intellect existed in England at that time, and the contest in the English Courts, finally decided by a very close vote in the House of Lords whether the Statute of Anne which authorized copyright for a limited time was a restraint to that extent on the common law or not, was then recent. It had attracted much attention as the judgment of the King's Bench, as delivered by Lord Mansfield, holding it was not such a restraint in Millar *v.* Taylor, decided in 1769, was overruled on appeal in the House of Lords in 1774. In this and other cases the whole question of the exclusive right to literary and intellectual productions had been freely discussed.

Congress had hardly assembled under the new constitution when petitions for copyright protection began to pour in. Mr. Jedidiah Morse of Massachusetts, prayed for protection for his Geography, and especially for two original maps which had been especially prepared therefor, and Daniel Ramsey of South Carolina, sought to protect his "History of the American Revolution." A bill was re-

[12] 111 U. S., 53.

ported at the First Session, but no final action taken upon it, and at the Second Session in 1790 the matter was taken up afresh, and the first copyright act of the United States was passed.[13] Undoubtedly the two committees through which this bill went had before them the various State statutes, as well as the Statute of Anne. They followed the provision in most of the States in providing that no one should "be entitled to the benefit of this Act" unless deposit of the title of the work for which copyright was sought was made in the clerk's office of the District Court of the United States where the author or proprietor resided. And they also adopted the words "before publication" with reference to new publications. This was the only condition for the vesting of copyright in this original Act.

The Act further made provision that a copy of the record of registration should be published in some newspaper printed in the United States, for the space of four weeks, and that a copy of the copyrighted work should be deposited with the Secretary of State, but these provisions were merely directory, and the copyright itself was not invalidated by a failure to comply with them.[14]

In 1802 the statute which up to that time applied to books, maps, and charts, was extended to "arts of designing, engraving, and etching, historical and other prints."[15] In the first section of the Act it was provided that in order "to be entitled to the benefit of the Act," the record of deposit of title page should be printed in full on the title page or the page immediately following. This was apparently adopted from the English Statute of 8 Geo. II, Chap. 13, which protected engravings, and on which the Act of 1802 was modelled. The draftsman seems also to have

[13] First Congress, Second Session, Chap. 15, May 31, 1790.
[14] (1790) Chap. 15, Sec. 4.
[15] Act of April 29, 1802.

had the Pennsylvania Act before him. Apparently by accident rather than design, the draftsman in making this provision for the printing of the record used the words "in addition to the requisites enjoined by the third and fourth sections of said Act" (meaning the Act of 1790). The fourth section of the act of 1790 provided for the deposit of a copy of the copyrighted book, but the provision was directory only, and a slip, or failure to comply, did not forfeit the copyright itself. It is not probable that in the use of the word "requisites" the draftsman or Congress intended to make deposit of a copy of the book a condition precedent to an author's having any sort of protection, but such was the effect.[16] The gift of a book for use of the Executive as provided in the North Carolina Statute,—or of two copies for Harvard College, as provided by Massachusetts, or of nine copies for the English Universities, is a graceful and proper act, and serves to identify the subject matter, but it ought never to have been placed as a stumbling block in the high road of copyright. A penalty for not furnishing the copies is entirely sufficient, and by the way, that penalty also exists in the present statute and may be enforced in any District Court by the Librarian of Congress.[17]

It is to be noted that six months from publication was allowed by the Act of 1790 for depositing copies. The period of grace has been obliterated, and now the deposit must be made "not later than the day of publication."

The provision of the Act of 1802 for printing notice of copyright in all copies of the work was no doubt justified by then existing conditions. Travel and communication between the thirteen States was slow and expensive. In order to ascertain whether a given book, map, chart,

[16] Ewer v. Coxe, 4 Wash. C. C., 487.
[17] Rev. Stat., Sec. 4960.

print, or cut was copyrighted, search would have to be made in all the District Courts of the country—if the author or designer were not known—and must be made in the district of his residence, wherever that might be, if he were known. Notice of copyright was therefore then properly required. But the conditions have now utterly changed. All deposits are to be made at Washington. A telegram to the copyright office will usually bring a reply on the same or the succeeding day. While the giving of notice is still serviceable and should be retained, it is absurd and wicked that a slip of a clerk or binder, or a mistake of the author, publisher, or printer, in the form of notice, should utterly destroy all copyright protection. Thus we see how three things became necessary before an author could be "secured" in the product of his own genius and ingenuity.

Nothing further was added in the way of conditions precedent to the vesting of copyright until 1891, when, in the International Copyright Act, it was further provided that the copies to be deposited "shall be printed from type set within the limits of the United States, or from plates made therefrom," etc.

Some interesting questions have arisen with regard to the correctness of the title deposited as compared with the title of the books deposited. Years ago Mr. Daly deposited the title of a play called "Under the Gas-Light, A Romantic Panorama of the Streets and Homes of New York." He placed it on the stage under the name of "Under the Gaslight, A Drama of Life and Love in These Times." When this was before the courts for the first and second times it was held that the variance was fatal,[18] but later these decisions were reversed, and the court rejected the descrip-

[18] Daly v. Brady, 39 Fed. Rep. 265. Daly v. Webster, 47 Fed. Rep. 903.

tive words, holding the title to be merely the words "Under the Gas-Light," and sustained copyright.[19]

The courts have been concerned with such questions as, these: Is the title "Pianoforte Arrangement of the Comic Opera The Mikado or the Town of Titipu, by W. S. Gilbert and Sir Arthur Sullivan," a variance from the title "Vocal Score of The Mikado, or the Town of Titipu?"[20] Is "the Lakeside Cook Book No. 1, A Complete Manual of Practical, Economical, Palatable, and Healthful Cookery," a variance from "Over One Thousand Receipts, Lakeside Cook Book, A Complete Manual of Practical, Economical, Palatable, and Healthful Cookery?"[21] These questions were resolved in favor of the copyright, but the fact remains that an author is entirely at the mercy of a mailing clerk in some publisher's office, so that if a title page is overlooked and does not reach the copyright office before publication, the work of years may lose protection. Again, the second requisite, the delivery of copies. The same things are to be said with reference to this. The failure of a shipping clerk to see that the copies go seasonably forward to Washington may destroy a publishing right of great value. Dr. Holmes' work, "The Autocrat of the Breakfast Table" was entered for copyright, but the copies of the Atlantic Monthly, in which it first appeared, were not deposited in the District Court Clerk's office until after publication and thereby the copyright on the work was lost.[22] The case of Gottsberger *v.* The Aldine Publishing Company is illustrative of the severity with which the rule may work. Mr. Gottsberger was about to issue an edition of "Ebers' Gallery,"

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[19] Daly v. Webster, 56 Fed. Rep. 483.
[20] Carte v. Evans, 27 Fed. Rep., 861.
[21] Donnelley v. Ivers, 20 Blatch. 381.
[22] Holmes v. Hurst, 174 U. S., 82.

which sold at about sixty dollars a copy. He sent two copies of the work to Washington, but did not prepay the expressage, and the copyright office, having no appropriation for such a purpose, declined to pay the amount, and the books were returned to the express offce until Mr. Gottsberger could be communicated with, and lay there for several days. In the meantime, sample copies of the book had been sent to various booksellers, and several books were sold. This constituted a publication a few days more than ten days prior to the time when the deposits were actually received at the copyright office, and the copyright was lost.[23] The Statute at that time allowed ten days from publication for the deposit.

Congress seems to have had a spasm of conscience on this subject, for March 3, 1893, an act was passed that if any author or proprietor had failed seasonably to comply with this provision of the Act, but had deposited two copies prior to the first day of March, 1893, and if he had complied with all other provisions, he should be entitled to the protection of the Act.[24] I do not know how this particular piece of legislation came about. There is no more reason why the author should be excused from seasonably depositing copies than from seasonably depositing the title, but the act is a commentary on the entire system. If it really is essential that copies of a copyrighted book should be deposited at Washington not later than the day of publication, why should Congress excuse authors who have failed for a year, or ten or twenty, or twenty-seven years to make the deposit.

The third requisite, that which is known as the Typographical Clause, was inserted in the International Copyright Act because the Act could not be passed without it.

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[23] Gottsberger v. Aldine Pub. Co., 33 Fed. Rep., 381.

[24] 27 Stat. at Large, p. 743.

The opposition of the typographical unions throughout the country, which feared that the International Copyright Act might transfer the setting up and printing of many books to foreign countries, would have been fatal to the passage of the Act. The agitation for international copyright had lasted fifty years without success, and it was thought best by nearly all friends of the measure to yield the point rather than lose the measure. Much severe criticism has been made abroad upon this part of the Act. A recent publication which had been set up and printed in England, entailed an expense of upwards of forty thousand dollars for resetting and electrotyping here. The American market, however, is so vast and so profitable that the expense is not prohibitive. It is too late, at all events, to consider any change in that branch of the Statute.

The fourth condition, namely, that suit can not be maintained unless notice of copyright has been printed in every copy of every edition of a book, etc., has brought more copyrights to grief than any other. The Statute, as I have said, prescribes substantially what language must be used in order to protect the copyright. If any copy of any edition published by, or with the authority of, the proprietor of the copyright, gets out without the copyright notice, the whole copyright is lost. If the words of the notice do not pretty literally comply with one or the other of the statutory forms the notice is bad. For instance, a notice which read "Entered according to Act of Congress in the year 1878, by A. J. Jackson," was held to be insufficient as not complying with either one of the forms, although containing very nearly the language of both. The word "copyright" in the shorter notice was omitted, and the words "in the office of the Librarian of

Congress at Washington," were omitted from the longer one.[25]

The courts have done what could be done to sustain notices. It has been held that '93,[26] or '94,[27] instead of 1893, etc., is sufficient, the year being sufficiently indicated. Notice of copyright in 1866, although 1867 was the true date, was held to be good, because a shorter term of copyright than the real one was indicated,[28] but on the other hand, where the error was the other way it is probably fatal, because it claimed too long a term.[29] Initials, as "N. Sarony," may be used instead of the full Christian name. The courts have many times been in doubt, and much has been spent in litigation. Frequently the first decision has been one way and the second decision the opposite. A decision that the copyright notice need not appear upon an original painting but only upon the copies of it offered for sale, was overruled and the copyright lost.[30]

Mrs. Harriet Beecher Stowe's book, "The Minister's Wooing," appeared in the Atlantic Monthly during the year 1859. The title of each number of the magazine was duly entered, but apparently only the December number was filed within the prescribed limit of time. Prior to the appearance of the last chapters in the December number the book was published as a whole, and entered for copyright by Mrs. Stowe, and was published with the copyright notice in her name. The December number of the Atlantic Monthly containing the last chapters of the story was duly copyrighted, but the copyright notice

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[25] Jackson *v.* Walkie, 29 Fed. Rep., 15.

[26] Snow *v.* Mast, 65 Fed. Rep., 995.

[27] Bolles *v.* Outing Co., 77 Fed. Rep., 966.

[28] Callaghan *v.* Myers, 128 U. S., 617.

[29] Schumacher *v.* Wogram, 35 Fed. Rep., 210.

[30] Werckmeister *v.* Pierce &. Bushnell, 63 Fed. Rep., 445, overruled by Pierce *v.* Werckmeister, 72 Fed. Rep., 57.

was in the name of the publishers, and this was held to be a fatal defect.[31]

The reverse of the proposition turned out as badly. Dr. Oliver Wendell Holmes', "The Professor at the Breakfast Table," appeared in the same magazine for the same year. Ofcourse copyright on the earlier chapters was lost by failure to deposit copies, and only copyright on the chapters in the December number could be saved. The book appeared with copyright notice in his name, after the December number copyrighted by the publishers was issued. The use of his name in the copyright notice on the book was held to be fatal. In other words, notice in the name of the principal is not a good notice where the work is copyrighted by the agent, and vice versa.[32]

It may be said that the Statute has not worked great hardship because the number of adjudicated cases against copyright is not very large, but this is not the real test. Every lawyer dealing with such matters is compelled over and over again to decide against bringing suits because of defects which he discovers, and which are irremediable. In a recent conference of counsel with reference to the bringing of suits upon a series of copyrights or copyrighted articles, all agreed that nearly half of the copyrights for one technicality or another were bad, and this too, by counsel whose interest it was to assert that they were good.

In a recent number of an illustrated paper there were brought together leading illustrations of certain artists through a number of years. No copyright notice was given on any of them and there seems little reason to doubt that copyright on all of them was lost. The notice on the title page of this particular number was wrong as to year; and the old decision saving miniature reproduc-

[31] Mifflin *v.* Dutton, 107 Fed. Rep., 708.

[32] Mifflin *v.* White Co., same case.

tions used only as a sales list[33] could hardly save these reprints, which faithfully reproduced the effect of the originals.

I have gone thus into detail with reference to these prerequisites of copyright or of suit thereon, because it seems to me that the basis on which our copyright provisions rest is erroneous. It being true that the author's right of property results from his labor, genius and ingenuity, and that protection was intended to be secured to him because of his dedication of his work to the public,[34] there is no reason why the security itself should be imperiled by a variety of technicalities, or why the value of the work should be frittered away in litigation over questions which have nothing to do with the real work or ownership. I have heard it asserted that nine copyrights out of ten might be defeated under the law if the questions were throughly litigated. Of course this is an exaggerated and inaccurate statement, but it illustrates the point I am making. What difference does it really make whether the title of a book reaches Washington on or before the day of publication, or whether the copies of the work are on the shelves of the Library of Congress on the day, or before the day, on which they appear on the shelves of the bookseller? And why should a person proposing to use the work of another, knowing that he himself is not the author of it or entitled to it in any manner, be relieved from all liability for piracy because some copy of some edition of the work, which very likely he has never seen, or has sought out only as a means of justifying his piracy, does not contain a copyright notice, or contains one defective in some particular? Honest merchantmen traversing the seas have never been compelled to fly at the mast head notice that they mounted six or a dozen guns to pro-

[33] Falk v. Gast, 54 Fed. Rep., 890.

[34] Grant *v.* Raymond, 6 Peters, 218, at 242. Maxwell *v.* Hogg, L. R. 2 Ch. 307.

tect some pirate of less armament from the danger of attempting to capture them.

The English copyright law contains no such difficulties. The publication of a work vests copyright in the author or his assignee.[35] The title even need not be registered until it is proposed to bring suit against infringment. A failure to deposit copies at Stationers' Hall for the benefit of the universities is not fatal to the copyright itself, and ought not to be. It may be rectified at any time, and at the utmost, the failure is only visited with a penalty.

It is not desirable that our system should be fundamentally changed or that the course to which our publishers have become accustomed should be altered, but it is important that there should be such changes in the Statute as to secure copyright in the real author, unless some omission of his can be shown to have *misled* a defendant into the innocent use of his work. The courts in a few instances where they did not come in direct conflict with the language of the Statute, have made decisions favorable to copyright upon the ground that no one had been misled, and this furnishes the true basis upon which these provisions ought to stand.

I have devoted so much time to these questions that I must deal rather more summarily with other defects which seem to me to exist. Our term of copyright is for twenty-eight years, with the privilege to the author, his widow or children, of a renewal upon certain terms for fourteen years more. It is difficult to understand why any such cumbersome method should exist. If protection is to be granted for forty-two years, why not comply once for all with such conditions as it seems necessary to impose? The danger may not be serious, but it is entirely conceivable that the author, his widow or children, may overlook the six

[35] Macgillivray Law of Copyright, p. 38. Scrutton, p. 139. 5 and 6 Vict. Ch. 45, Sec. 10.

months period at the end of twenty-eight years within which the renewal must be had, and if the author be a woman no right of renewal is given her husband. An unnecessary complication between the author and the person to whom he may have sold the copyright exists. Suppose, for the purpose of argument, that an assignee of the right of renewal may use the author's name or even that of his family to secure the renewal, why should either of them be compelled to record "the title of the work or description of the article so secured a second time," and to comply "with all other regulations in regard to original copyrights?" Why should they be compelled to take these steps "within six months before the expiration of the first term," and why should he, or they, be required "within two months of the date of said renewal to cause a copy of the record thereof to be published in one or more newspapers printed in the United States for the space of four weeks?"[36] Historically this last is only a repetition of the provision in the Pennsylvania statute prior to the adoption of the constitution. It has been carried foward for a century and nearly a quarter after all reason for its existence had ceased.

It may be said that the term of forty-two years for copyright is sufficient, but it frequently happens that an author's earliest works have lost copyright protection while he is still alive. Edward Everett Hale's earlier works are out of copyright, and so of other authors. James Russell Lowell's earliest copyrights expired during his lifetime. The English law, giving copyright for the life of the author and seven years after, or for the period of forty-two years, which ever is the longer term, would seem to be more in accordance with justice.

[6] Rev. Stat. U. S., Sec. 4954.

Our provision with regard to plays and musical compositions is substantially the same as with regard to books. No separate provision is made to meet their special requirements. To obtain valid copyright, a play must be printed, deposited at Washington, and published after the manner of a book. As a matter of fact, there are few valuable plays which are ever printed. They remain in manuscript, each part, with the preceding cues, being distributed from time to time to the acting company. It being our law that presentation on the stage is not a publication of the play,[37] protection can be had perpetually at common law. But this is foreign to our system of copyright for a limited term. There is no reason why a play should be perpetually protected, and a map or chart should not. Special provision for this class of property might well be had upon deposit of typewritten copies of the play. Production on the stage might be considered equivalent to publication, and thus dramas brought into unison with the rest of our copyright system.

Newspapers, if copyrighted at all, must conform to the provisions for the copyrighting of more permanent forms of literature, and the term of copyright is the same. The sending of a title and two copies of a paper every night or morning to the copyright office is a cumbersome procedure, and the term granted is wholly disproportionate to the transitory character of much matter contained in newspapers.

The deposit at Washington of newspapers from all over the country, which must necessarily arrive after the value of their information has largely disappeared, cannot be considered of much importance. There would seem to be no reason why copyright protection should not be secured on newspapers, at least, by the mere fact of publi-

[37] Tompkins *v.* Halleck, 133 Mass., 32.

cation, and the protection ought to be temporarily extended beyond the mere language in which the news is stated. Many papers, and the Press Association, go to enormous expense in procuring news for the public. The news itself, the facts stated, should be protected, and not merely the literary vehicle in which it is conveyed. This protection, however, need not be, and ought not to be, for a long period. The public is entitled shortly after publication to the full use everywhere of all news material, and the purpose of the newspaper will be fully subserved by a brief protection of the news matter which it has in one way or another secured.

These illustrations are doubtless sufficient to indicate some of the lines along which copyright revision might proceed.

I cannot refrain, however, from taking up as briefly as may be the various and conflicting provisions with regard to penalties. Nothing better illustrates the archaic condition of the law.

The penalty of one hundred dollars for falsely inserting the notice of copyright in an uncopyrighted work is treated as a public offence.[38] But in procedure the idea that the offence is against the public is not carried out by making it punishable by the public prosecutor. The duty is left to some litigious volunteer who is encouraged by the offer of one-half of the penalty for his pains; the other half going to the use of the United States.

This section is practically inoperative. The inducement to carry on such litigation is not apparently sufficient, and the Courts have not shown a disposition to aid it. Justice Brewer said in Taft *v.* Stephens Lithographic and Engraving Co., 38 Fed. Rep. 28, where one million

[38] Rev. Stat. U. S., Sec. 4963.

dollars was sought to be recovered under this section, viz., $100 penalty on each of 10,000 chromos:—

> "Plaintiff is not suing for the value of his services, or for injury to his property, but simply to make profit to himself out of the wrongs of others; and when a man comes in as an informer, and in that attitude alone asks to have a half million dollars put into his pocket, the courts will never strain a point to make his labors light, or his recovery easy."

If the unwarranted use of the word "copyright" is an offence, the offender should be prosecuted by the government, and not by an "informer."

In the case of the unauthorized publication of a manuscript of any kind, the statute, Sec. 4967, merely gives the owner of the manuscript his actual damages for the invasion of his rights. Although this section is placed with the sections imposing a penalty, it is not itself penal, but a declaration of the common law, giving a remedy in the United States Courts in addition to the existing remedy in the State Courts.

The provisions with reference to infringement of the copyright upon a book (section 4964) are based on the idea of compensation to the owner of the copyright. It will be observed that the forfeitures under this section go wholly to the proprietor of the copyright; that they cannot be recovered until not only the title has been recorded, but also two copies of the book have been deposited as required by statute; that the damages to be recovered in money are the damages actually sustained, and not an arbitrary sum; that they are measured by the infringer's entire conduct, and not by the chance number of infringing copies found in his hands at the beginning of the suit.

In the case of a map, chart, musical or dramatic composition, (section 4965) the statute is inconceivably drawn. The penalty is to be divided between the "proprietors of

the copyright" and the United States; no copyright need actually exist, but the recording of the title of such a work is sufficient to base proceedings upon; the plates on which the infringing work is printed are forfeited, as well as the sheets printed, and a fixed penalty of one dollar per sheet in certain cases, and of ten dollars per copy in others, is established. The liability to the money penalty is limited to the number of sheets "*found in his possession*," meaning the infringer's possession, irrespective of the number which he may have circulated.

This section has given rise to much litigation. Suits for amounts beyond the dreams of avarice have been brought. One of the Boston newspapers was recently sued for $150,000, for printing the song "Daddy Wouldn't Buy Me a Bow Wow," in its Sunday issue. It was a severe test, but the paper admitted the extent of the circulation. The suit, however, came to an untimely end. All the copies had been circulated as soon as printed, and none were "found" in the defendant's "possession."

What will constitute a finding, has been much considered by the Courts. The things that the word found does not mean would fill a volume, and more. It does not mean "found" by a jury to have been in the defendant's possession.[39] In an action against a principal, it does not mean a finding in the hands of an agent because the Statute is penal.[40] Nor in an action against the agent is a finding in his hands sufficient because his possession is that of his principal.[41] Finding does not mean merely seeing them. A seizure by the marshal in the suit to enforce the penalty is not a sufficient finding because the finding must preceed the date of the writ in order to create

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[39] Sarony *v.* Ehrich, 28 Fed. Rep., 79.

[40] Schreiber *v.* Sharpless, 6 Fed. Rep.,, 715. Taylor *v.* Gilman, 24 Fed. Rep. 632.

[41] Thornton *v.* Schreiber, 124 U. S 612. Bolles *v.* Outing Co., 77 Fed. Rep., 966.

the cause of action.[42] The cases in which the penalty has been enforced are few, but the amounts involved are frequently alarming.

You have noticed perhaps how uncertain the Statute is as to what is a sufficient consent by the owner of the copyright to save a publisher from the penalty. In the case of a manuscript any consent is sufficient. But in the case of a book, map, chart, dramatic or musical composition, a consent in writing signed in the presence of two witnesses is necessary. Why? You can pass the title to a million dollars of property by the simplest writing. You can contract for a mine or a railroad or a ton of coal without a witness. But the most trashy song or a book or play or poem cannot be transferred without nearly the formality of a will.

It remained for the theatrical trust to add a new feature to copyright penalties. In 1897, Congress enacted that an unlawful presentation of a play or musical composition should be visited with certain money penalties, and that if the performance was wilful and for profit it should be a misdemeanor punishable by imprisonment not exceeding one year. The consent of the owner of the copyright to the performanee, however, need not be in writing.

The lack of harmony in these provisions is apparent, and the whole system, in the light of its interpretation by the Courts, calls for revision.

You have borne with me thus far in this review of the law. I hope you will agree with me that it requires comprehensive revision. In the old days when the publication of books was a profession with high ideals, matters might be well left to themselves. In the case of many firms, even before the International Copyright Act, the works of foreign writers were not stolen but liberal royal-

[42] Thornton *v.* Schreiber, *supra.*

ty was paid. It is gratifying to know that many such publishing houses still exist. But it is also painful to consider that there are others with no sense of honor or high principle. Their idea of their calling is merely that of manufacture and merchandising. A book to them is merely a brick, a box,or a chair, to be made at the lowest cost and sold at the highest price, no matter whence the material comes. The courts are more and more called upon to consider these questions. And besides this, the reproduction of the various things which are the subject of copyright has enormousiy increased. The wealth and business of the country and the methods and means of duplication have increased immeasurably. The law requires adaptation to these modern conditions. It is no longer possible to summarize it in a few sections covering everything copyrightable. It should be revised so that protection to the honest literary worker, artist, or designer shall be simple and certain.

On motion of Mr. Joseph A. Locke of Portland,

Voted: That the thanks of the Association be tendered to Hon. Joseph W. Symonds and Hon. Samuel J. Elder for the addresses of the day and that a copy of the same be printed with the proceedings.

Mr. Fellows, from the committee to nominate officers for the ensuing year made the following report, which was accepted and the following officers were unanimously elected by ballot:

OFFICERS FOR 1903-1904.

President.

Joseph C. Holman, - -	Farmington.

Vice-Presidents.

L. B. Deasy, - - - -	Bar Harbor.
George D. Bisbee, - - -	Rumford Falls.
Harry R. Virgin, - - -	Portland.

Secretary and Treasurer.

Leslie C. Cornish, - - -	Augusta.

Voted to adjourn to meet at the Cony House at 8.30, P. M., at which hour the annual dinner was served.

Executive Committee.

Wm. T. Haines, - - -	Waterville.
F. E. Timberlake, - - -	Phillips.
Geo. M. Seiders, - - -	Portland.
A. S. Kimball, - - -	Norway.
George C. Wing, - - -	Auburn.

Committee on Membership.

H. W. Oakes, - - -	Auburn.
Charles F. Daggett, - -	Presque Isle.
Albert S. Woodman, - -	Portland.
Elmer E. Richards, . - -	Farmington.
Arno W. King, - - -	Ellsworth.
D. N. Mortland, - - -	Rockland.
Wm. H. Hilton, - - -	Damariscotta.
S. S. Brown, - - - -	Waterville.
J. S. Wright, - - -	Paris.
Hugh R. Chaplin, - - -	Bangor.
W. E. Parsons, - - -	Foxcroft.
F. E. Southard, - - -	Bath.
Forrest Goodwin, - - -	Skowhegan.
Wm. P. Thompson, - - -	Belfast.
L. H. Newcomb, - - -	Eastport.
Horace H. Burbank, - -	Saco.

Committee on Law Reform.

Charles F. Libby, - - -	Portland.
John A. Morrill, - - -	Auburn.

F. H. Appleton, - - -	Bangor.
Leroy T. Carleton, - - -	Winthrop.
A. S. Littlefield, - - -	Rockland.

Committee on Legal History.

A. W. King, - - - -	Ellsworth.
W. C. Philbrook, - - -	Waterville.
Peregrine White, - - -	Bangor.
Barrett Potter, - - -	Brunswick.
A. F. Moulton, - - -	Portland.

Committee on Legal Education.

J. W. Mitchell, - - -	Auburn.
Louis C. Stearns, - - -	Caribou.
F. C. Payson, - - - -	Portland.
S. Clifford Belcher, - -	Farmington.
O. F. Fellows, - - -	Bucksport.
C. F. Johnson, - - -	Waterville.
Jos. E. Moore, - - -	Thomaston.
George B. Kenniston, - -	Boothbay [Harbor.
George A. Wilson, - - -	South Paris.
E. C. Ryder, - - - -	Bangor.
Henry Hudson, - - -	Guilford.
Jos. M. Trott, - - - -	Bath.
George W. Gower, - - -	Skowhegan.
R. F. Dunton, - - -	Belfast.
C. B. Donworth, - - -	Machias.
Hampden Fairfield, - - -	Saco.

AMENDED BY-LAWS

OF THE

MAINE STATE BAR ASSOCIATION.

ARTICLE 1. MEMBERSHIP.

Members of the Bar in this State, shall be eligible to membership and shall be elected at any legal meeting, upon the nomination of the committee on membership.

ARTICLE 2. OFFICERS.

The officers of this association shall be a president, three vice-presidents, an executive committee, a committee on law reform, a committee on legal education and admission to the bar, a committee on legal history, a secretary and a treasurer. All these officers shall be elected by ballot at the annual meeting and shall hold office until others are elected and qualified in their stead.

Other standing committees than those above specified may be provided by the association from time to time as may be found expedient.

Article 3. President.

The president, or in his absence, one of the vice-presidents, shall preside at all meetings of the association. The president shall be, *ex-officio*, a member of the executive committee.

Article 4. Executive Committee.

The executive committee shall consist of four members beside the president. They shall have charge of the affairs of the association, make arrangements for meetings, order the disbursement of the funds of the association, audit its accounts, and have such other powers as may be conferred on them by vote at any meeting of the association.

Article 5. Committee on Law Reform.

The committee on Law Reform shall consist of five members. It shall be the duty of this committee to consider and report to the association such amendments of the law as should in their opinion be adopted; also to scrutinize proposed changes of the law, and when necessary, report upon the same; also to observe the practical working of the judicial system of the State and recommend by written or printed reports, from time to time, any changes therein which experience or observation may suggest.

Article 6. Committee on Legal Education.

The committee on legal education shall consist of one member from each county represented in the association. Its duty shall be to prepare and report a system of legal education and for examination and admission to the practice of the profession in this State, and report from time to time such changes in the system of examination and admission as may be deemed advisable.

Article 7. Committee on Membership.

The committee on membership shall consist of one member from each county represented in the association. All applications for membership shall be made to the member from the county where the applicant resides, if any, otherwise to any member of the committee. Applicants shall be nominated for membership by the concurrence of three members of this committee.

Article 8. Committee on Legal History.

The committee on Legal History shall consist of so many members as the association shall, from year to year, appoint.

Its duty shall be to provide for the preservation in the archives of the society, of the record of such facts relating to the history of the profession as may be of interest,

and of suitable written or printed memorials of the lives and characters of distinguished members of the profession.

Article 9. Secretary.

The secretary shall keep the records of the association, have charge of its archives, and discharge such other duties as the association may require.

Article 10. Treasurer.

The treasurer shall collect and receive the dues of the association, keep and by order of the executive committee disburse its funds, and discharge such other duties as may pertain to his office. Any person may fill the office of both secretary and treasurer if elected thereto. A vacancy occurring in either of these offices may be filled by appointment of the executive committee.

Article 11. Meetings.

The annual meeting of the association shall be held on the second Wednesday of February, at such place in the city of Augusta in the years in which the legislature shall be in session, and in the alternate years at such city in the State and at such hour, as the executive committee may determine. Special meetings may be called by the president, on application in writing of five members, ten days' notice of which by mail shall be given to each member by the secretary, stating the object of the meeting. Fifteen members shall constitute a quorum at any meeting.

Article 12. Annual Dues.

The annual dues shall be one dollar for each member, payable to the treasurer on or before the first day of June in each year.

Failure to pay the annual due for two years in succession shall terminate the membership of the person in default.

Article 13. Expulsion of Members.

Any member may be expelled for misconduct, professional or otherwise, by a two-thirds vote of the members present at any meeting after proper notice of the charges; and all the interest of any member in the property of the association upon the termination of his membership, by expulsion, resignation or otherwise, shall thereupon vest absolutely in the association.

Article 14. Amendments.

These by-laws may be amended only by a two-thirds vote of the members present at an annual meeting of the association.

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Article 14. Amendments.

These by-laws may be amended only by a two-thirds vote of the members present at an annual meeting of the association.

OFFICERS SINCE ORGANIZATION.

Presidents.

CHARLES W. LIBBY, Portland, 1891 to 1896.

HERBERT M. HEATH, Augusta, 1896 to 1897.

FRANKLIN A. WILSON, Bangor, 1897 to 1898.

CHARLES E. LITTLEFIELD, Rockland, 1898 to 1899.

WALLACE H. WHITE, Lewiston, 1899 to 1902.

JOSEPH W. SYMONDS, Portland, 1902 to 1903.

JOSEPH C. HOLMAN, Farmington, 1903 to

Secretary and Treasurer.

LESLIE C. CORNISH, 1891 to

MEMBERS

OF THE

MAINE STATE BAR ASSOCIATION,

1902-1903.

Androscoggin County.

Tascus Atwood,	Auburn.
W. W. Bolster,	Auburn.
D. J. Callahan,	Lewiston.
Seth M. Carter,	Auburn.
J. G. Chabot,	Lewiston.
W. H. Conforth,	Auburn.
Franklin M. Drew,	Lewiston.
Willard F. Estey,	Lewiston.
S. M. Farnum, Jr.,	Auburn.
P. H. Kelleher,	Auburn.
Rogers P. Kelley,	Auburn.
Jesse M. Libby,	Mechanic Falls.
M. L. Lizotte,	Lewiston.
F. E. Ludden,	Auburn.
Harry Manser,	Lewiston.
J. H. Maxwell,	LivermoreFalls.

George E. McCann,	Auburn.
J. W. Mitchell,	Auburn.
John A. Morrill,	Auburn.
Wm. H. Newell,	Lewiston.
Henry W. Oakes,	Auburn.
James A. Pulsifer,	Auburn.
John L. Reade,	Lewiston.
Herbert C. Royal,	Auburn.
Fred N. Saunders,	Lewiston.
W. B. Skelton,	Lewiston.
Reuel W. Smith,	Auburn.
A. E. Verrill,	Auburn.
Wallace H. White,	Lewiston.
George C. Wing,	Auburn.

Aroostook County.

James Archibald,	Houlton.
Walter Cary,	Houlton.
Charles F. Daggett,	Presque Isle.
F. G. Dunn,	Ashland.
Willis B. Hall,	Caribou.
Ira G. Hersey,	Houlton.
E. A. Holmes,	Caribou.
Wallace R. Lumbert,	Caribou.
Frederick A. Powers,	Houlton.
Llewellyn Powers,	Houlton.
Beecher Putnam,	Houlton.
H. W. Safford,	Mars Hill.
R. W. Shaw,	Houlton.
S. S. Thornton,	Ashland.

Cumberland County.

George H. Allan, - - -	Portland.
Arthur F. Belcher, - - -	Portland.
George E. Bird, - - -	Portland.
Wilford G. Chapman, - -	Portland.
Frederick V. Chase, - -	Portland.
Albro E. Chase, - - -	Portland.
Wm. Henry Clifford,* - -	Portland.
Nathan Clifford, - - -	Portland.
Charles S. Cook, - - -	Portland.
Liberty B. Dennett, - -	Portland.
James L. Doolittle, - -	Brunswick.
Morrill N. Drew, - - -	Portland.
Josiah H. Drummond, Jr., -	Portland.
Isaac W. Dyer, - - -	Portland.
John H. Fogg, - - -	Portland.
James C. Fox, - - -	Portland.
M. P. Frank, - - -	Portland.
Eben W. Freeman, - - -	Portland.
Clarence Hale, - - -	Portland.
Frederick Hale, - - -	Portland.
C. A. Hight, - - - -	Portland.
Leroy S. Hight, - - -	Portland.
Wm. M. Ingraham, - -	Portland.
Hiram Knowlton, - - -	Portland.
W. J, Knowlton, - - -	Portland.
P. J. Larrabee, - - -	Portland.
Seth L. Lerrabee, - - -	Portland.
C. Thornton Libby, - -	Portland.
Charles F. Libby, - - -	Portland.
George Libby, - - -	Portland.
Ira S. Locke, - - -	Portland.

*Deceased.

Jos. A. Locke,	Portland.
Wm. H. Looney,	Portland.
John J. Lynch,	Portland.
Chas. P. Mattocks,	Portland.
John F. A. Merrill,	Portland.
Carroll W. Morrill,	Portland.
Wm. H. Motley,	Woodfords.
Augustus F. Moulton,	Portland.
David E. Moulton,	Portland.
George F. Noyes,	Portland.
Irving W. Parker,	Portland.
Franklin C. Payson,	Portland.
Barrett Potter,	Brunswick.
Wm. L. Putnam,	Portland.
George D. Rand,*	Portland.
Edward M. Rand,	Portland.
Edward C. Reynolds,	Portland.
F. W. Robinson,	Portland.
J. H. Rousseau,	Brunswick.
Clarence E. Sawyer,	Brunswick.
George M. Seiders,	Portland.
David W. Snow,	Portland.
H. W. Swasey,	Portland.
Joseph W. Symonds,	Portland.
Benj. Thompson,	Portland.
Edward F. Tompson,	Portland.
Levi Turner,	Portland.
H. M. Verrill,	Portland.
Harry R. Virgin,	Portland.
Augustus H. Walker,	Bridgton.
F. S. Waterhouse,	Limerick.
John A. Waterman,	Gorham.

*Deceased.

Lindley M. Webb,	Portland.
Richard Webb,	Portland.
John Wells,	Portland.
John S. White,	Naples.
Robert T. Whitehouse,	Portland.
Virgil C. Wilson,	Portland.
Albert S. Woodman,	Portland.
Edward Woodman,	Portland.

Franklin County.

S. Clifford Belcher,	Farmington.
Cyrus N. Blanchard,	Wilton.
Frank W. Butler,	Farmington.
E. O. Greenleaf,	Farmington.
Joseph C. Holman,	Farmington.
N. P. Noble,	Phillips.
Elmer E. Richards,	Farmington.
Philip H. Stubbs,	Strong.
Josiah H. Thompson,	Farmington.
F. E. Timberlake,	Phillips.

Hancock County.

Henry Boynton,	Sullivan.
Wm. O. Buck,	Bucksport.
F. Carroll Burrill,	Ellsworth.
B. E. Clark,	Bar Harbor.
Edward S. Clark,	Bar Harbor.
O. P. Cunningham,	Bucksport.
L. B. Deasy,	Bar Harbor.

O. F. Fellows,	Bucksport.
E. Webster French,*	S. W. Harbor.
Geo. R. Fuller,	S. W. Harbor.
L. F. Giles,	Ellsworth.
Hannibal E. Hamlin,	Ellsworth.
A. W. King,	Ellsworth.
John A. Peters, 2nd,	Ellsworth.
E. P. Spofford,	Deer Isle.
B. E. Tracy,	Winter Harbor.
Geo. M. Warren,	Castine.
Chas. H. Wood,	Bar Harbor.

Kennebec County.

E. C. Ambrose,	Readfield.
Charles L. Andrews,	Augusta.
Orville D. Baker,	Augusta.
Norman L. Bassett,	Augusta.
Emery O. Bean,	Readfield.
Geo. K. Boutelle,	Waterville.
F. E. Brown,	Waterville.
Simon S. Brown,	Waterville.
Lewis A. Burleigh,	Augusta.
Leroy T. Carleton,	Winthrop.
Leonard D. Carver,	Augusta.
Winfield S. Choate,*	Augusta.
F. W. Clair,	Waterville.
Leslie C. Cornish,	Augusta.
Harvey D. Eaton,	Waterville.
Frank G. Farrington,	Augusta.

*Deceased.

Geo. W. Field, - - -	Oakland.
W. H. Fisher, - - -	Augusta.
Eugene S. Fogg, - - -	Augusta.
Dana P. Foster, - - -	Waterville.
H. E. Foster, - - - -	Winthrop.
A. M. Goddard, - - -	Augusta.
Wm. T. Haines, - - -	Waterville.
Herbert M. Heath, - - -	Augusta.
Geo. W. Heselton, - -	Gardiner.
Melvin S. Holway, - -	Augusta.
C. F. Johnson, - - -	Waterville.
Treby Johnson, - - -	Augusta.
Samuel W. Lane, - - -	Augusta.
Thomas Leigh, - - -	Augusta.
Thomas J. Lynch, - - -	Augusta.
Joseph H. Manley, - -	Augusta.
Benedict F. Maher, - -	Augusta.
W. L. McFadden, - - -	Augusta.
Arthur L. Perry, - - -	Gardiner.
Warren C. Philbrook, - -	Waterville.
F. K. Shaw, - - - -	Waterville.
G. T. Stevens, - - -	Augusta.
Asbury C. Stilphen, - -	Gardiner.
Lendall Titcomb, - - -	Augusta.
Henry S. Webster, - - -	Gardiner.
Joseph Williamson, Jr., - -	Augusta.

Knox County.

Alex. A. Beaton, - - -	Rockland.
Edw. K. Gould. - - -	Rockland.

Frank H. Ingraham,	Rockland.
Arthur S. Littlefield,	Rockland.
Charles E. Littlefield,	Rockland.
J. H. Montgomery,	Camden.
Jos. E. Moore,	Thomaston.
David N. Mortland,	Rockland.
James E. Rhodes, 2d.	Rockland.
Reuel Robinson,	Camden.
L. M. Staples,	Washington.
Frederick S. Walls,	Vinal Haven.

Lincoln County.

Ozro D. Castner,	Waldoboro.
Everett Farrington,	Waldoboro.
Emerson Hilton,	Wiscasset.
Wm. H. Hilton,	Damariscotta.
G. B. Kenniston,	Boothbay [Harbor.
Geo. B. Sawyer,	Wiscasset.

Oxford County.

George D. Bisbee,	Rumford Falls.
P. C. Fickett,	West Paris.
Seth W. Fife,	Fryeburg.
A. E. Herrick,	Bethel.
Alfred S. Kimball,	Norway.
Charles A. Mendall,	Canton.
George A. Wilson,	South Paris.
J. S. Wright,	South Paris.

Penobscot County.

B. C. Additon,	Bangor.
Frederick H. Appleton,	Bangor.
Charles A. Bailey,	Bangor.
Victor Brett,	Bangor.
James H. Burgess,	Bangor.
Hugh R. Chaplin,	Bangor.
W. C. Clark,	Lincoln.
Milton S. Clifford,	Bangor.
Josiah Crosby,	Dexter.
J. Willis Crosby,	Dexter.
Charles Davis,	Bangor.
Charles J. Dunn,	Orono.
Bertram L. Fletcher,	Bangor.
P. H. Gillin,	Bangor.
Joseph F. Gould,	Old Town.
Charles Hamlin,	Bangor.
Henry P. Haynes,	East Corinth.
M. Laughlin,	Bangor.
Forrest J. Martin,	Bangor.
John R. Mason,	Bangor.
Alanson J. Merrill,	Bangor.
Henry L. Mitchell,	Bangor,
F. H. Parkhurst,	Bangor.
H. H. Patten,	Bangor.
Wm. B. Peirce,	Bangor.
T. H. B. Pierce,	Dexter.
S. T. Plummer,	Dexter.
W. H. Powell,	Old Town.
Allen E. Rogers,	Orono.
Erastus C. Ryder,	Bangor.

James M. Sanborn,	Newport.
Clarence Scott,	Old Town.
George T. Sewall,	Old Town.
Bertram L. Smith,	Patten.
Ruel Smith,	Bangor.
Thos. W. Vose,	Bangor.
Peregrine White,	Bangor.
F. J. Whiting,	Old Town.
Franklin A. Wilson,	Bangor.
Charles F. Woodard,	Bangor.

Piscataquis County.

Calvin W. Brown,	Dover.
M. L. Durgin,	Milo.
Frank E. Guernsey,	Dover.
Henry Hudson,	Guilford.
Willis E. Parsons,	Foxcroft.
Joseph B. Peaks,	Dover.
John F. Sprague,	Monson.

Sagadahoc County.

Arthur J. Dunton,	Bath.
Sanford L. Fogg,	Bath.
Wm. T. Hall,	Richmond.
Wm. T. Hall, Jr.,	Bath.
George E. Hughes,	Bath.
Charles W. Larrabee,	Bath.
Charles D. Newell,	Richmond.
Frank E. Southard,	Bath.
Franklin P. Sprague,	Bath.
Frank L. Staples,	Bath.
Joseph M. Trott,	Bath.

Somerset County.

Turner Buswell, - - -	Solon.
George M. Chapman, - -	Fairfield.
Abel Davis, - - - -	Pittsfield.
Bernard Gibbs, - - -	Madison.
Forrest Goodwin, - - -	Skowhegan.
George W. Gower, - -	Skowhegan.
Daniel Lewis, - - -	Skowhegan.
John W. Manson, - - -	Pittsfield.
E. N. Merrill, - - -	Skowhegan.
F. E. McFadden, - - -	Fairfield.
Augustine Simmons, - -	No. Anson.
C. O. Small, - - - -	Madison.
Daniel Steward, - - -	No. Anson.
L. L. Walton, - - -	Skowhegan.
George G. Weeks, - - -	Fairfield.

Waldo County.

Ellery Bowden, - - -	Winterport.
Fred W. Brown, - - -	Belfast.
R. F. Dunton, - - -	Belfast.
George E. Johnson, - -	Belfast.
Arthur Ritchie, - - -	Liberty.
Wm. P. Thompson, - -	Belfast.

Washington County.

James M. Beckett, - -	Calais.
F. I. Campbell, - - -	Cherryfield.
George A. Curran, - -	Calais,
Clement B. Donworth, - -	Machias.

George R. Gardner,	Calais.
H. H. Gray,	Millbridge.
F. B. Livingstone,	Calais.
J. H. McFaul,	Eastport.
I. G. McLarren,	Eastport.
B. B. Murray,	Pembroke.
L. H. Newcomb,	Eastport.
Charles Peabody,*	Millbridge.
B. Rogers,	Pembroke.

York County.

Fred J. Allen,	Sanford.
Horace H. Burbank,	Saco.
John B. Donovan,	Alfred.
Walter H. Downs,	So. Berwick.
George A. Emery,	Saco.
Geo. D. Emery,	E. Lebanon.
Willis T. Emmons,	Saco.
Hampden Fairfield,	Saco.
George A. Goodwin,	Springvale.
John M. Goodwin,	Biddeford.
F. W. Guptill,	Saco.
Frank M. Higgins,	Limerick.
Nathaniel Hobbs,	No. Berwick.
Luther R. Moore,	Saco.
W. P. Perkins,	Cornish.
Charles H. Prescott,	Biddeford.
Moses A. Safford,	Kittery.
John C. Stewart,	York Village.
Edwin Stone,	Biddeford,

*Deceased.

PROCEEDINGS

OF THE

THIRTEENTH ANNUAL MEETING

OF THE

MAINE STATE BAR ASSOCIATION

HELD AT

AUBURN, MAINE, FEBRUARY 17, 1904.

AUGUSTA:
PRESS OF CHARLES E. NASH & SON.
1904.

tect some pirate of less armament from the danger of attempting to capture them.

The English copyright law contains no such difficulties. The publication of a work vests copyright in the author or his assignee.[35] The title even need not be registered until it is proposed to bring suit against infringment. A failure to deposit copies at Stationers' Hall for the benefit of the universities is not fatal to the copyright itself, and ought not to be. It may be rectified at any time, and at the utmost, the failure is only visited with a penalty.

It is not desirable that our system should be fundamentally changed or that the course to which our publishers have become accustomed should be altered, but it is important that there should be such changes in the Statute as to secure copyright in the real author, unless some omission of his can be shown to have *misled* a defendant into the innocent use of his work. The courts in a few instances where they did not come in direct conflict with the language of the Statute, have made decisions favorable to copyright upon the ground that no one had been misled, and this furnishes the true basis upon which these provisions ought to stand.

I have devoted so much time to these questions that I must deal rather more summarily with other defects which seem to me to exist. Our term of copyright is for twenty-eight years, with the privilege to the author, his widow or children, of a renewal upon certain terms for fourteen years more. It is difficult to understand why any such cumbersome method should exist. If protection is to be granted for forty-two years, why not comply once for all with such conditions as it seems necessary to impose? The danger may not be serious, but it is entirely conceivable that the author, his widow or children, may overlook the six

[35] Macgillivray Law of Copyright, p. 38. Scrutton, p. 139. 5 and 6 Vict. Ch. 45, Sec. 10.

months period at the end of twenty-eight years within which the renewal must be had, and if the author be a woman no right of renewal is given her husband. An unnecessary complication between the author and the person to whom he may have sold the copyright exists. Suppose, for the purpose of argument, that an assignee of the right of renewal may use the author's name or even that of his family to secure the renewal, why should either of them be compelled to record "the title of the work or description of the article so secured a second time," and to comply "with all other regulations in regard to original copyrights?" Why should they be compelled to take these steps "within six months before the expiration of the first term," and why should he, or they, be required "within two months of the date of said renewal to cause a copy of the record thereof to be published in one or more newspapers printed in the United States for the space of four weeks?"[36] Historically this last is only a repetition of the provision in the Pennsylvania statute prior to the adoption of the constitution. It has been carried foward for a century and nearly a quarter after all reason for its existence had ceased.

It may be said that the term of forty-two years for copyright is sufficient, but it frequently happens that an author's earliest works have lost copyright protection while he is still alive. Edward Everett Hale's earlier works are out of copyright, and so of other authors. James Russell Lowell's earliest copyrights expired during his lifetime. The English law, giving copyright for the life of the author and seven years after, or for the period of forty-two years, which ever is the longer term, would seem to be more in accordance with justice.

[6] Rev. Stat. U. S., Sec. 4954.

Our provision with regard to plays and musical compositions is substantially the same as with regard to books. No separate provision is made to meet their special requirements. To obtain valid copyright, a play must be printed, deposited at Washington, and published after the manner of a book. As a matter of fact, there are few valuable plays which are ever printed. They remain in manuscript, each part, with the preceding cues, being distributed from time to time to the acting company. It being our law that presentation on the stage is not a publication of the play,[37] protection can be had perpetually at common law. But this is foreign to our system of copyright for a limited term. There is no reason why a play should be perpetually protected, and a map or chart should not. Special provision for this class of property might well be had upon deposit of typewritten copies of the play. Production on the stage might be considered equivalent to publication, and thus dramas brought into unison with the rest of our copyright system.

Newspapers, if copyrighted at all, must conform to the provisions for the copyrighting of more permanent forms of literature, and the term of copyright is the same. The sending of a title and two copies of a paper every night or morning to the copyright office is a cumbersome procedure, and the term granted is wholly disproportionate to the transitory character of much matter contained in newspapers.

The deposit at Washington of newspapers from all over the country, which must necessarily arrive after the value of their information has largely disappeared, cannot be considered of much importance. There would seem to be no reason why copyright protection should not be secured on newspapers, at least, by the mere fact of publi-

[37] Tompkins v. Halleck, 133 Mass., 32.

cation, and the protection ought to be temporarily extended beyond the mere language in which the news is stated. Many papers, and the Press Association, go to enormous expense in procuring news for the public. The news itself, the facts stated, should be protected, and not merely the literary vehicle in which it is conveyed. This protection, however, need not be, and ought not to be, for a long period. The public is entitled shortly after publication to the full use everywhere of all news material, and the purpose of the newspaper will be fully subserved by a brief protection of the news matter which it has in one way or another secured.

These illustrations are doubtless sufficient to indicate some of the lines along which copyright revision might proceed.

I cannot refrain, however, from taking up as briefly as may be the various and conflicting provisions with regard to penalties. Nothing better illustrates the archaic condition of the law.

The penalty of one hundred dollars for falsely inserting the notice of copyright in an uncopyrighted work is treated as a public offence.[38] But in procedure the idea that the offence is against the public is not carried out by making it punishable by the public prosecutor. The duty is left to some litigious volunteer who is encouraged by the offer of one-half of the penalty for his pains; the other half going to the use of the United States.

This section is practically inoperative. The inducement to carry on such litigation is not apparently sufficient, and the Courts have not shown a disposition to aid it. Justice Brewer said in Taft *v.* Stephens Lithographic and Engraving Co., 38 Fed. Rep. 28, where one million

[38] Rev. Stat. U. S., Sec. 4963.

dollars was sought to be recovered under this section, viz., $100 penalty on each of 10,000 chromos:—

> "Plaintiff is not suing for the value of his services, or for injury to his property, but simply to make profit to himself out of the wrongs of others; and when a man comes in as an informer, and in that attitude alone asks to have a half million dollars put into his pocket, the courts will never strain a point to make his labors light, or his recovery easy."

If the unwarranted use of the word "copyright" is an offence, the offender should be prosecuted by the government, and not by an "informer."

In the case of the unauthorized publication of a manuscript of any kind, the statute, Sec. 4967, merely gives the owner of the manuscript his actual damages for the invasion of his rights. Although this section is placed with the sections imposing a penalty, it is not itself penal, but a declaration of the common law, giving a remedy in the United States Courts in addition to the existing remedy in the State Courts.

The provisions with reference to infringement of the copyright upon a book (section 4964) are based on the idea of compensation to the owner of the copyright. It will be observed that the forfeitures under this section go wholly to the proprietor of the copyright; that they cannot be recovered until not only the title has been recorded, but also two copies of the book have been deposited as required by statute; that the damages to be recovered in money are the damages actually sustained, and not an arbitrary sum; that they are measured by the infringer's entire conduct, and not by the chance number of infringing copies found in his hands at the beginning of the suit.

In the case of a map, chart, musical or dramatic composition, (section 4965) the statute is inconceivably drawn. The penalty is to be divided between the "proprietors of

the copyright" and the United States; no copyright need actually exist, but the recording of the title of such a work is sufficient to base proceedings upon; the plates on which the infringing work is printed are forfeited, as well as the sheets printed, and a fixed penalty of one dollar per sheet in certain cases, and of ten dollars per copy in others, is established. The liability to the money penalty is limited to the number of sheets "*found in his possession*," meaning the infringer's possession, irrespective of the number which he may have circulated.

This section has given rise to much litigation. Suits for amounts beyond the dreams of avarice have been brought. One of the Boston newspapers was recently sued for $150,000, for printing the song "Daddy Wouldn't Buy Me a Bow Wow," in its Sunday issue. It was a severe test, but the paper admitted the extent of the circulation. The suit, however, came to an untimely end. All the copies had been circulated as soon as printed, and none were "found" in the defendant's "possession."

What will constitute a finding, has been much considered by the Courts. The things that the word found does not mean would fill a volume, and more. It does not mean "found" by a jury to have been in the defendant's possession.[39] In an action against a principal, it does not mean a finding in the hands of an agent because the Statute is penal.[40] Nor in an action against the agent is a finding in his hands sufficient because his possession is that of his principal.[41] Finding does not mean merely seeing them. A seizure by the marshal in the suit to enforce the penalty is not a sufficient finding because the finding must preceed the date of the writ in order to create

[39] Sarony *v.* Ehrich, 28 Fed. Rep., 79.

[40] Schreiber *v.* Sharpless, 6 Fed. Rep.,, 715. Taylor *v.* Gilman, 24 Fed. Rep. 632.

[41] Thornton *v.* Schreiber, 124 U. S 612. Bolles *v.* Outing Co., 77 Fed. Rep., 966.

George R. Gardner,	Calais.
H. H. Gray,	Millbridge.
F. B. Livingstone,	Calais.
J. H. McFaul,	Eastport.
I. G. McLarren,	Eastport.
B. B. Murray,	Pembroke.
L. H. Newcomb,	Eastport.
Charles Peabody,*	Millbridge.
B. Rogers,	Pembroke.

York County.

Fred J. Allen,	Sanford.
Horace H. Burbank,	Saco.
John B. Donovan,	Alfred.
Walter H. Downs,	So. Berwick.
George A. Emery,	Saco.
Geo. D. Emery,	E. Lebanon.
Willis T. Emmons,	Saco.
Hampden Fairfield,	Saco.
George A. Goodwin,	Springvale.
John M. Goodwin,	Biddeford.
F. W. Guptill,	Saco.
Frank M. Higgins,	Limerick.
Nathaniel Hobbs,	No. Berwick.
Luther R. Moore,	Saco.
W. P. Perkins,	Cornish.
Charles H. Prescott,	Biddeford.
Moses A. Safford,	Kittery.
John C. Stewart,	York Village.
Edwin Stone,	Biddeford,

*Deceased.

PROCEEDINGS

OF THE

THIRTEENTH ANNUAL MEETING

OF THE

MAINE STATE BAR ASSOCIATION

HELD AT

AUBURN, MAINE, FEBRUARY 17, 1904.

AUGUSTA:
PRESS OF CHARLES E. NASH & SON.
1904.

PROCEEDINGS

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OFFICE OF SECRETARY OF

MAINE STATE BAR ASSOCIATION.

AUGUSTA, MAINE, FEBRUARY 8, 1904.

Dear Sir: The thirteenth annual meeting of the MAINE STATE BAR ASSOCIATION will be held at the Municipal Court Room, Auburn, Maine, on Wednesday, February 17th, at 2.30 o'clock, P. M.

The order of business will be as follows:

1. Report of Secretary and Treasurer.
2. Reports of Committees.
3. Election of Officers.
4. Miscellaneous Business.

It has been deemed best this year to omit the annual dinner and have simply a business session.

Per order,

LESLIE C. CORNISH, Secretary.

Maine State Bar Association.

THIRTEENTH ANNUAL MEETING.

AUBURN, MAINE, FEBRUARY 17, 1904.

In accordance with the foregoing call, which was duly sent to each member of the Association in accordance with the By-laws, the thirteenth annual meeting of the MAINE STATE BAR ASSOCIATION was held at the Municipal Court Room, Auburn, Maine, on Wednesday, February 17, 1904, at 2.30 o'clock, P. M.

The meeting was called to order by the President of the Association, Hon. Joseph C. Holman of Farmington.

The call for the meeting was read by the Secretary.

The records of the last meeting were read and approved.

The Treasurer submitted his annual report, which was as follows:

TREASURER'S REPORT.

AUGUSTA, MAINE, February 17, 1904.

LESLIE C. CORNISH, Treasurer, in account with the MAINE STATE BAR ASSOCIATION, for the year ending February 17, 1904.

DR.

To cash balance from preceding year.	$93 96
" received from dues during the year,	185 00
" received for dinner tickets, 32, $4 each,	128 00
	$406 96

CR.

By cash paid for expenses of dinner,		$126 75
	postage,	11 24
	salary Sec'y and Treas.,	100 00
	postage,	10 00
	postage,	3 64
	C. E. Nash, for printing,	85 25
Cash in bank to balance,		70 08
		$406 96

Mr. John A. Morrill of Auburn was appointed auditor to examine the report. Mr. Morrill subsequently reported the correctness of the account and the report was accepted and ordered to be placed on file.

Messrs. Franklin M. Drew of Lewiston, Henry W. Oakes and Reuel W. Smith of Auburn were appointed a committee to nominate officers for the ensuing year. Subsequently the Chairman made the following report, which was accepted and the following officers were unanimously elected by ballot:

OFFICERS FOR 1904-1905.

President.

George D. Bisbee, - -	Rumford Falls.

Vice-Presidents.

L. B. Deasy, - - - -	Bar Harbor.
Harry R. Virgin, - - -	Portland.
B. B. Murray, , - - -	Calais.

Secretary and Treasurer.

Leslie C. Cornish, - - -	Augusta.

Executive Committee.

W. H. Newell, - - -	Lewiston.
Chas. S. Cook, - - -	Portland.
O. F. Fellows, - - -	Bucksport.
John W. Manson, - - -	Pittsfield.
Jos. E. Moore, - - -	Thomaston.

Committee on Membership.

Reuel W. Smith, - - -	Auburn.
Beecher Putnam, - - -	Houlton.
Morrill N. Drew, - - -	Portland.
Cyrus N. Blanchard, - -	Wilton.
B. E. Tracy, - - - -	Winter Harbor.
James E. Rhodes, 2d, - -	Rockland.
Joseph Williamson, - -	Augusta.
G. B. Kenniston, - - -	Boothbay Har.
A. E. Herrick, - - -	Bethel.
M. Laughlin, - - - -	Bangor.
Frank E. Guernsey, - - -	Dover.
W. T. Hall, Jr., - - -	Bath.
C. O. Small, - - - -	Madison.
R. F. Dunton, - - -	Belfast.
F. I. Campbell, - - -	Cherryfield.
George A. Goodwin, - -	Springvale.

Committee on Law Reform.

Charles F. Libby, - - -	Portland.
John A. Morrill, - - -	Auburn.
F. H. Appleton, - - -	Bangor.
Leroy T. Carleton, - - -	Winthrop.
A. S. Littlefield, - - -	Rockland.

Committee on Legal History.

Charles Hamlin, - - -	Bangor.
Forrest Goodwin, - - -	Skowhegan.
S. C. Belcher, - - -	Farmington.
Robert T. Whitehouse, - -	Portland.
J. L. Reade, - - - -	Lewiston.

Committee on Legal Education.

Tascus Atwood, - - -	Auburn.
R. W. Shaw, - - -	Houlton.
Benjamin Thompson, - -	Portland.
N. P. Noble, - - - -	Phillips.
H. E. Hamlin, - - -	Ellsworth.
Frank G. Farrington, - -	Augusta.
Reuel Robinson, - - -	Camden.
W. H. Hilton, - - - -	Damariscotta.
A. S. Kimball, - - - -	Norway.
Bertram L. Smith, - - -	Bangor.
W. E. Parsons, - - -	Foxcroft.
Chas. D. Newell, - - -	Richmond.
George G. Weeks, - - -	Fairfield.
Wm. P. Thompson, - -	Belfast.
Geo. A. Curran, - - -	Calais.
Willis T. Emmons, - - -	Saco.

A letter was read from the President of the American Bar Association, requesting that five delegates be elected at this meeting to attend the Universal Congress of Lawyers and Jurists to be held in St. Louis, Missouri, on September 28, 29 and 30, 1904.

On motion duly seconded, it was voted that the President appoint a committee of five and thereupon the following were duly appointed.

Hon. Joseph W. Symonds, - -	Portland.
Hon. Llewellyn Powers, - -	Houlton.
Frederick H. Appleton, - -	Bangor.
John A. Morrill, - -	Auburn.
Leslie C. Cornish, - -	Augusta.

Voted: That the President of the Association be authorized to fill vacancies in the above list of delegates.

Mr. Geo. C. Wing and Mr. Harry Manser were appointed to act with Henry W. Oakes as members of the Committee on membership and they subsequently recommended the following gentlemen, all of whom were duly elected to membership:

Geo C. Wing, Jr. - - -	Auburn.
Chas. G. Keene, - - -	Auburn.
James R. Parsons, - - -	Portland.
Geo. H. Winn, - - - -	Lewiston.
Geo. G. McCarthy, - - -	Lewiston.
W. H. Watson, - - - -	Auburn.
Wallace H. White, Jr. - - -	Lewiston.
Harry E. Coolidge, - - -	Lewiston.
Harry F. Beedy, - - - -	Phillips.
A. F. Fenderson, - - -	Farmington.
Ralph T. Parker, - - - -	Rumford Falls.
John H. Dana, - - - -	Portland.
P. P. Baxter, Jr. - - - -	Portland.
Howard R. Ives, - - - -	Portland.
H. P. Carver, - - - -	Auburn.
B. S. Peacock, - - - -	Freeport.
James H. Hudson, - - -	Guilford.

Voted to adjourn. Adjourned.

A true record. Attest:

LESLIE C. CORNISH, Secretary.

AMENDED BY-LAWS

OF THE

MAINE STATE BAR ASSOCIATION.

ARTICLE 1. MEMBERSHIP.

Members of the Bar in this State, shall be eligible to membership and shall be elected at any legal meeting, upon the nomination of the committee on membership.

ARTICLE 2. OFFICERS.

The officers of this association shall be a president, three vice-presidents, an executive committee, a committee on law reform, a committee on legal education and admission to the bar, a committee on legal history, a secretary and a treasurer. All these officers shall be elected by ballot at the annual meeting and shall hold office until others are elected and qualified in their stead.

Other standing committees than those above specified may be provided by the association from time to time as may be found expedient.

Article 3. President.

The president, or in his absence, one of the vice-presidents, shall preside at all meetings of the association. The president shall be, *ex-officio*, a member of the executive committee.

Article 4. Executive Committee.

The executive committee shall consist of four members beside the president. They shall have charge of the affairs of the association, make arrangements for meetings, order the disbursement of the funds of the association, audit its accounts, and have such other powers as may be conferred on them by vote at any meeting of the association.

Article 5. Committee on Law Reform.

The committee on Law Reform shall consist of five members. It shall be the duty of this committee to consider and report to the association such amendments of the law as should in their opinion be adopted; also to scrutinize proposed changes of the law, and when necessary, report upon the same; also to observe the practical working of the judicial system of the State and recommend by written or printed reports, from time to time, any changes therein which experience or observation may suggest.

Article 6. Committee on Legal Education.

The committee on legal education shall consist of one member from each county represented in the association. Its duty shall be to prepare and report a system of legal education and for examination and admission to the practice of the profession in this State, and report from time to time such changes in the system of examination and admission as may be deemed advisable.

Article 7. Committee on Membership.

The committee on membership shall consist of one member from each county represented in the association. All applications for membership shall be made to the member from the county where the applicant resides, if any, otherwise to any member of the committee. Applicants shall be nominated for membership by the concurrence of three members of this committee.

Article 8. Committee on Legal History.

The committee on Legal History shall consist of so many members as the association shall, from year to year, appoint.

Its duty shall be to provide for the preservation in the archives of the society, of the record of such facts relating to the history of the profession as may be of interest,

and of suitable written or printed memorials of the lives and characters of distinguished members of the profession.

ARTICLE 9. SECRETARY.

The secretary shall keep the records of the association, have charge of its archives, and discharge such other duties as the association may require.

ARTICLE 10. TREASURER.

The treasurer shall collect and receive the dues of the association, keep and by order of the executive committee disburse its funds, and discharge such other duties as may pertain to his office. Any person may fill the office of both secretary and treasurer if elected thereto. A vacancy occurring in either of these offices may be filled by appointment of the executive committee.

ARTICLE 11. MEETINGS.

The annual meeting of the association shall be held on the second Wednesday of February, at such place in the city of Augusta in the years in which the legislature shall be in session, and in the alternate years at such city in the State and at such hour, as the executive committee may determine. Special meetings may be called by the president, on application in writing of five members, ten days' notice of which by mail shall be given to each member by the secretary, stating the object of the meeting. Fifteen members shall constitute a quorum at any meeting.

Article 12. Annual Dues.

The annual dues shall be one dollar for each member, payable to the treasurer on or before the first day of June in each year.

Failure to pay the annual due for two years in succession shall terminate the membership of the person in default.

Article 13. Expulsion of Members.

Any member may be expelled for misconduct, professional or otherwise, by a two-thirds vote of the members present at any meeting after proper notice of the charges; and all the interest of any member in the property of the association upon the termination of his membership, by expulsion, resignation or otherwise, shall thereupon vest absolutely in the association.

Article 14. Amendments.

These by-laws may be amended only by a two-thirds vote of the members present at an annual meeting of the association.

OFFICERS SINCE ORGANIZATION.

Presidents.

CHARLES F. LIBBY, Portland, 1891 to 1896.

HERBERT M. HEATH, Augusta, 1896 to 1897.

FRANKLIN A. WILSON, Bangor, 1897 to 1898.

CHARLES E. LITTLEFIELD, Rockland, 1898 to 1899.

WALLACE H. WHITE, Lewiston, 1899 to 1902.

JOSEPH W. SYMONDS, Portland, 1902 to 1903.

JOSEPH C. HOLMAN, Farmington, 1903 to 1904.

GEORGE D. BISBEE, Rumford Falls, 1904 to

Secretary and Treasurer.

LESLIE C. CORNISH, 1891 to

MEMBERS

OF THE

MAINE STATE BAR ASSOCIATION,

1903-1904.

Androscoggin County.

Tascus Atwood,	- - -	Auburn.
W. W. Bolster,	- - -	Auburn.
D. J. Callahan,	- - -	Lewiston.
Seth M. Carter,	- - -	Auburn.
J. G. Chabot,	- - -	Lewiston.
W. H. Conforth,	- - -	Auburn.
Franklin M. Drew,	- -	Lewiston.
Willard F. Estey,	- - -	Lewiston.
S. M. Farnum, Jr.,	- -	Auburn.
P. H. Kelleher,	- - -	Auburn.
Rogers P. Kelley,	- - -	Auburn.
Jesse M. Libby,	- - -	Mechanic Falls.
M. L. Lizotte,	- - -	Lewiston.
F. E. Ludden,	- - -	Auburn.
Harry Manser,	- - -	Lewiston.
J. H. Maxwell,	- - -	LivermoreFalls.

George E. McCann, - -	Auburn.
George G. McCarthy, - -	Lewiston.
John A. Morrill, - - -	Auburn.
Wm. H. Newell, - - -	Lewiston.
Henry W. Oakes, - - -	Auburn.
James A. Pulsifer, - - -	Auburn.
John L. Reade, - - -	Lewiston.
Herbert C. Royal, - - -	Auburn.
Fred N. Saunders, - - -	Lewiston.
W. B. Skelton, - - -	Lewiston.
Reuel W. Smith, - - -	Auburn.
A. E. Verrill, - - - -	Auburn.
W. H. Watson, - - -	Auburn.
Wallace H. White, - - -	Lewiston.
Wallace H. White, Jr., - -	Lewiston.
George C. Wing, - - -	Auburn.
George C. Wing, Jr., - -	Auburn.
George H. Winn, - - -	Lewiston.

Aroostook County.

James Archibald, - - -	Houlton.
Walter Cary, - - - -	Houlton.
Charles F. Daggett, - - -	Presque Isle.
F. G. Dunn, - - - -	Ashland.
Willis B. Hall, - - -	Caribou.
Ira G. Hersey, - - -	Houlton.
E. A. Holmes, - - -	Caribou.
Wallace R. Lumbert, - -	Caribou.
Llewellyn Powers, - - -	Houlton.
Beecher Putnam, - - -	Houlton.
H. W. Safford, - - -	Mars Hill.
R. W. Shaw, - - -	Houlton.
S. S. Thornton, - - -	Ashland.

Cumberland County.

George H. Allan, - - -	Portland.
P. P. Baxter, Jr., - - -	Portland.
Arthur F. Belcher, - - -	Portland.
George E. Bird, - - -	Portland.
Wilford G. Chapman, - -	Portland.
Frederick V. Chase, - -	Portland.
Albro E. Chase, - - -	Portland.
Nathan Clifford, - - -	Portland.
Charles S. Cook, - - -	Portland.
John H. Dana, - - -	Portland.
Liberty B. Dennett, - -	Portland.
James L. Doolittle, - -	Brunswick.
Morrill N. Drew, - - -	Portland.
Josiah H. Drummond, Jr., -	Portland.
Isaac W. Dyer, - - -	Portland.
John H. Fogg, - - -	Portland.
James C. Fox, - - -	Portland.
M. P. Frank, - - -	Portland.
Eben W. Freeman, - - -	Portland.
Clarence Hale, - - -	Portland.
Frederick Hale, - - -	Portland.
C. A. Hight, - - - -	Portland.
Leroy S. Hight, - - -	Portland.
Wm. M. Ingraham, - -	Portland.
Howard R. Ives, - - -	Portland.
Hiram Knowlton, - - -	Portland.
W. J. Knowlton, - - -	Portland.
P. J. Larrabee, - - -	Portland.
Seth L. Larrabee, - - -	Portland.
C. Thornton Libby, - -	Portland.
Charles F. Libby, - - -	Portland.
George Libby, - - -	Portland.
Ira S. Locke, - - -	Portland

Jos. A. Locke,	Portland.
Wm. H. Looney,	Portland.
John J. Lynch,	Portland.
Chas. P. Mattocks,	Portland.
John F. A. Merrill,	Portland.
Carroll W. Morrill,	Portland.
Wm. H. Motley,	Woodfords.
Augustus F. Moulton,	Portland.
David E. Moulton,	Portland.
George F. Noyes,	Portland.
Irving W. Parker,	Portland.
James R. Parsons,	Portland.
Franklin C. Payson,	Portland.
B. S. Peacock,	Freeport.
Barrett Potter,	Brunswick.
Wm. L. Putnam,	Portland.
Edward M. Rand,	Portland.
Edward C. Reynolds,	Portland.
F. W. Robinson,	Portland.
J. H. Rousseau,	Brunswick.
Clarence E. Sawyer,	Brunswick.
George M. Seiders,	Portland.
David W. Snow,	Portland.
H. W. Swasey,	Portland.
Joseph W. Symonds,	Portland.
Benj. Thompson,	Portland,
Edward F. Tompson,	Portland.
Levi Turner,	Portland.
H. M. Verrill,	Portland.
Harry R. Virgin,	Portland.
Augustus H. Walker,	Bridgton.
F. S. Waterhouse,	Limerick.
John A. Waterman,	Gorham.

Lindley M. Webb,	Portland.
Richard Webb,	Portland.
John Wells,	Portland.
John S. White,	Naples.
Robert T. Whitehouse,	Portland.
Virgil C. Wilson,	Portland.
Albert S. Woodman,	Portland.
Edward Woodman,	Portland.

Franklin County.

Harry F. Beedy,	Phillips.
S. Clifford Belcher,	Farmington.
Cyrus N. Blanchard,	Wilton.
Frank W. Butler,	Farmington.
A. F. Fenderson,	Farmington.
E. O. Greenleaf,	Farmington.
Joseph C. Holman,	Farmington.
N. P. Noble,	Phillips.
Elmer E. Richards,	Farmington.
Philip H. Stubbs,	Strong.
Josiah H. Thompson,	Farmington.
F. E. Timberlake,	Phillips.

Hancock County.

Henry Boynton,	Sullivan.
Wm. O. Buck,	Bucksport.
F. Carroll Burrill,	Ellsworth.
B. E. Clark,	Bar Harbor.
Edward S. Clark,	Bar Harbor.
O. P. Cunningham,	Bucksport.
L. B. Deasy,	Bar Harbor.

O. F. Fellows,	Bucksport.
Geo. R. Fuller,	S. W. Harbor.
L. F. Giles,	Ellsworth.
Hannibal E. Hamlin,	Ellsworth.
A. W. King,	Ellsworth.
John A. Peters, 2nd,	Ellsworth.
E. P. Spofford,	Deer Isle.
B. E. Tracy,	Winter Harbor.
Geo. M. Warren,	Castine.
Chas. H. Wood,	Bar Harbor.

Kennebec County.

E. C. Ambrose,	Readfield.
Charles L. Andrews,	Augusta.
Orville D. Baker,	Augusta.
Norman L. Bassett,	Augusta.
Emery O. Beane,	Readfield.
Geo. K. Boutelle,	Waterville.
F. E. Brown,	Waterville.
Simon S. Brown,	Waterville.
Lewis A. Burleigh,	Augusta.
Leroy T. Carleton,	Winthrop.
Leonard D. Carver,	Augusta.
Winfield S. Choate,*	Augusta.
F. W. Clair,	Waterville.
Leslie C. Cornish,	Augusta.
Harvey D. Eaton,	Waterville.
Frank G. Farrington,	Augusta.

*Deceased

Geo. W. Field,	Oakland.
W. H. Fisher,	Augusta.
Eugene S. Fogg,	Augusta.
Dana P. Foster,	Waterville.
H. E. Foster,	Winthrop.
A. M. Goddard,	Augusta.
Wm. T. Haines,	Waterville.
Herbert M. Heath,	Augusta.
Geo. W. Heselton,	Gardiner.
Melvin S. Holway,	Augusta.
C. F. Johnson,	Waterville.
Treby Johnson,	Augusta.
Samuel W. Lane,	Augusta.
Thomas Leigh,	Augusta.
Thomas J. Lynch,	Augusta.
Joseph H. Manley,	Augusta.
Benedict F. Maher,	Augusta.
W. L. McFadden,	Augusta.
Arthur L. Perry,	Gardiner.
Warren C. Philbrook,	Waterville.
F. K. Shaw,	Waterville.
G. T. Stevens,	Augusta.
Asbury C. Stilphen,	Gardiner.
Lendall Titcomb,	Augusta.
Henry S. Webster,	Gardiner.
Joseph Williamson,	Augusta.

Knox County.

Alex. A. Beaton,	Rockland.
Edw. K. Gould.	Rockland.

Frank H. Ingraham,	Rockland.
Arthur S. Littlefield,	Rockland.
Charles E. Littlefield,	Rockland.
J. H. Montgomery,	Camden.
Jos. E. Moore,	Thomaston.
David N. Mortland,	Rockland.
James E. Rhodes, 2d.	Rockland.
Reuel Robinson,	Camden.
L. M. Staples,	Washington.
Frederick S. Walls,	Vinal Haven.

Lincoln County.

Ozro D. Castner,	Waldoboro.
Everett Farrington,	Waldoboro.
Emerson Hilton,	Wiscasset.
Wm. H. Hilton,	Damariscotta.
Geo. B. Sawyer,*	Wiscasset.

Oxford County.

George D. Bisbee,	Rumford Falls.
P. C. Fickett,	West Paris.
Seth W. Fife,	Fryeburg.
A. E. Herrick,	Bethel.
Alfred S. Kimball,	Norway.
Charles A. Mendall,	Canton.
Ralph T. Parker,	Rumford Falls.
George A. Wilson,	South Paris.
J. S. Wright,	South Paris.

*Deceased.

Penobscot County.

B. C. Additon,	Bangor.
Frederick H. Appleton,	Bangor.
Charles A. Bailey,	Bangor.
Victor Brett,	Bangor.
James H. Burgess,	Bangor.
Hugh R. Chaplin,	Bangor.
W. C. Clark	Lincoln.
Milton S. C	Bangor.
Josiah Cre	Dexter.
J. Willis Crosby,	Dexter.
Charles Davis,*	Bangor.
Charles J. Dunn,	Orono.
Bertram L. Fletcher,	Bangor.
P. H. Gillin,	Bangor.
Joseph F. Gould,	Old Town.
Charles Hamlin,	Bangor.
Henry P. Haynes,	East Corinth.
M. Laughlin,	Bangor.
Forrest J. Martin,	Bangor.
John R. Mason,	Bangor.
Alanson J. Merrill,	Bangor.
Henry L. Mitchell,	Bangor,
F. H. Parkhurst,	Bangor.
H. H. Patten,	Bangor.
Wm. B. Peirce,	Bangor.
T. H. B. Pierce,	Dexter.
J. T. Plummer,	Dexter.
W. H. Powell,	Old Town.
Allen E. Rogers,	Orono.
Erastus C. Ryder,	Bangor.

*Deceased.

James M. Sanborn,	Newport.
Clarence Scott,	Old Town.
George T. Sewall,	Old Town.
Bertram L. Smith,	Patten.
Ruel Smith,	Bangor.
Thos. W. Vose,	Bangor.
Peregrine White,	Bangor.
F. J. Whiting,	Old Town.
Franklin A. Wilson,	Bangor.
Charles F. Woodard,	Bangor.

Piscataquis County.

Calvin W. Brown,	Dover.
M. L. Durgin,	Milo.
Frank E. Guernsey,	Dover.
Henry Hudson,	Guilford.
James H. Hudson,	Guilford.
Willis E. Parsons,	Foxcroft.
Joseph B. Peaks,	Dover.
John F. Sprague,	Monson.

Sagadahoc County.

Arthur J. Dunton,	Bath.
Sanford L. Fogg,	Bath.
Wm. T. Hall,	Richmond.
Wm. T. Hall, Jr.,	Bath.
George E. Hughes,	Bath.
Charles W. Larrabee,	Bath.
Charles D. Newell,	Richmond.
Frank E. Southard,	Bath.
Franklin P. Sprague,	Bath.
Frank L. Staples,	Bath.
Joseph M. Trott,	Bath.

Somerset County.

Turner Buswell,	Solon.
George M. Chapman,	Fairfield.
Abel Davis,	Pittsfield.
Bernard Gibbs,	Madison.
Forrest Goodwin,	Skowhegan.
George W. Gower,	Skowhegan.
Daniel Lewis,	Skowhegan.
John W. Manson,	Pittsfield.
E. N. Merrill,	Skowhegan.
F. E. McFadden,*	Fairfield.
Augustine Simmons,	No. Anson.
C. O. Small,	Madison.
Daniel Steward,	No. Anson.
L. L. Walton,	Skowhegan.
George G. Weeks,	Fairfield.

Waldo County.

Ellery Bowden,	Winterport.
Fred W. Brown,	Belfast.
R. F. Dunton,	Belfast.
George E. Johnson,	Belfast.
Arthur Ritchie,	Liberty.
Wm. P. Thompson,	Belfast.

Washington County.

James M. Beckett,	Calais.
F. I. Campbell,	Cherryfield.
George A. Curran,	Calais,
Clement B. Donworth,	Machias.

*Deceased.

George R. Gardner, - -	Calais.
H. H. Gray, - - - -	Milbridge.
F. B. Livingstone, - -	Calais.
J. H. McFaul, - - -	Eastport.
I. G. McLarren, - - -	Eastport.
B. B. Murray, - - -	Calais.
L. H. Newcomb, - - -	Eastport.
B. Rogers, - - - -	Pembroke.

York County.

Fred J. Allen, - - -	Sanford.
Horace H. Burbank, - -	Saco.
John B. Donovan, - - -	Alfred.
Walter H. Downs, - - -	So. Berwick.
George A. Emery, - - -	Saco.
Geo. D. Emery, - - -	E. Lebanon.
Willis T. Emmons, - -	Saco.
Hampden Fairfield, - -	Saco.
George A. Goodwin, - -	Springvale.
John M. Goodwin, - -	Biddeford.
F. W. Guptill, - - -	Saco.
Frank M. Higgins, - -	Limerick.
Nathaniel Hobbs, - - -	No. Berwick.
Luther R. Moore, - - -	Saco.
W. P. Perkins, - - -	Cornish.
Charles H. Prescott, - -	Biddeford.
Moses A. Safford, - - -	Kittery.
John C. Stewart, - - -	York Village.
Edwin Stone, - - -	Biddeford.

PROCEEDINGS

OF THE

FOURTEENTH ANNUAL MEETING

OF THE

MAINE STATE BAR ASSOCIATION

HELD AT

AUGUSTA, MAINE, FEBRUARY 15, 1905

AUGUSTA
PRESS OF CHARLES E. NASH & SON
1905

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1905

OFFICE OF SECRETARY OF

MAINE STATE BAR ASSOCIATION.

AUGUSTA, MAINE, FEBRUARY 6, 1905.

Dear Sir:—

The fourteenth annual meeting of the Maine State Bar Association will be held in the Senate Chamber, Augusta, Maine, on Wednesday, February 15, 1905, at 3 o'clock P. M.

The order of business will be as follows:

1. Reports of Secretary and Treasurer.

2. Reports of Committees.

3. Address by the President, Hon. George D. Bisbee of Rumford Falls, Maine.

4. Annual address by Hon. Lucilius A. Emery of Ellsworth, Maine.

5. Election of Officers.

6. Any other business that may properly come before the Association.

The meeting will conclude with a dinner at Hotel North, at 8.30 o'clock, P. M.

Please notify the Secretary at once by enclosed postal whether you will be present at the dinner. This is necessary in order to complete the arrangements.

Per order,

LESLIE C. CORNISH, Secretary.

Maine State Bar Association.

FOURTEENTH ANNUAL MEETING.

AUGUSTA, MAINE, FEBRUARY 15, 1905.

In accordance with the call for the meeting, which was duly sent to each member of the Association, as provided in the By-Laws, the fourteenth annual meeting of the Maine State Bar Association was held at the Senate Chamber, Augusta, Maine, on Wednesday, February fifteenth, 1905, at 3 o'clock, P. M.

The meeting was called to order by the President of the Association, Hon. George D. Bisbee, of Rumford Falls.

The call for the meeting was read by the Secretary.

The records of the last meeting were read and approved.

The Secretary submitted his annual report, which was duly accepted and ordered to be printed in the report.

SECRETARY'S REPORT.

1904-5.

To the Maine State Bar Association:

The proceedings of the last meeting, together with a list of officers and members of the Association, have been printed and circulated among the members. During the past year, as in the preceding years, the Secretary has secured by exchange the annual reports of all the other State Bar Associations throughout the United States, and has deposited them in the State Library. Many of these reports contain articles of great value, upon the legal topics of the day, which are of interest to the profession, and a valuable library is thus gradually being obtained.

At the last meeting of the Association, five delegates were chosen to attend the Universal Congress of Lawyers and Jurists held at St. Louis, Mo., on Sept. 28, 29 and 30th, 1904, viz:—

Hon. Joseph W. Symonds,	Portland.
Hon. Llewellyn Powers,	Houlton.
F. H. Appleton, Esq.,	Bangor.
John A. Morrill, Esq.,	Auburn.
Leslie C. Cornish, Esq.,	Augusta.

Of these, Mr. Morrill, Mr. Cornish and Mr. Hugh R. Chaplin of Bangor, as substitute for Mr. Appleton, were in attendance. The report of that Congress will soon be published and placed on file.

The following members of the Association have died during the year:—

Arthur F. Belcher,	Portland.
Joseph A. Locke,	Portland.
Emery O. Bean,	Readfield.
Joseph H. Manley,	Augusta.
Eugene S. Fogg,	Augusta.
Josiah Crosby,	Dexter.
Charles W. Larrabee,	Bath.
Horace H. Burbank,	Saco.

All of which is respectfully submitted,

LESLIE C. CORNISH, Secretary.

The Treasurer submitted his annual report, which was accepted and on motion of Mr. F. E. Timberlake, who had audited the same, ordered to be printed in the report.

TREASURER'S REPORT.

AUGUSTA, MAINE, FEBRUARY 15, 1905.

LESLIE C. CORNISH, Treasurer, in account with the MAINE STATE BAR ASSOCIATION, for the year ending February 15th, 1905.

DR.

To cash balance from preceding year,	$ 70 08
To amount received from dues during the year,	196 00
	$266 08

CR.

1904,		
Feb. 23,	By amount paid for postage,	$ 14 88
Mar. 9,	" " " Secretary & Treasurer,	100 00
1905,		
Jan. 11,	" " " Chas. E. Nash & Son for printing,	38 30
Feb. 6,	" " " for postals and envelopes,	12 48
Feb. 13,	" " " for printing notices for meeting and postals,	4 25
Cash in bank to balance,		96 17
		$266 08

Examined and found correct.

F. E. TIMBERLAKE.

On recommendation of the Committee on membership, the following new members were duly elected:—

W. T. Cobb,	Rockland.
S. Thayer Kimball,	Rockland.
Sumner P. Mills,	Stonington.
Charles W. Jones,	Augusta.
F. J. C. Little,	Augusta.
Harold M. Sewall,	Bath.
Tillson Woodside,	Lewiston.
D. J. McGillicuddy,	Lewiston.
Frank A. Morey,	Lewiston.
Howard Pierce,	Fort Kent.
William M. Bradley,	Portland.
John Wilson,	Bangor.

O. B. Clason,	Gardiner.
Guy A. Hildreth,	Gardiner.
Frank L. Dutton,	Augusta.

On motion of Oscar F. Fellows, a committee of three, consisting of Oscar F. Fellows, of Bucksport, Charles F. Libby of Portland and Henry W. Oakes of Auburn was appointed to nominate officers for the ensuing year.

Remarks on the needs of the Association were made by Hon. George C. Wing of Auburn, and on his motion, voted that the Committee on legal history be increased to sixteen, one to be appointed from each county, and that that Committee be requested to forward to the Secretary, at least two weeks before the annual meeting, obituary notices of deceased members of the profession in each county, in order that a full report may be made at each annual meeting.

The President of the Association then introduced Hon. Lucilius A. Emery, Justice of the Supreme Judicial Court of Maine, who delivered the annual address. Subject, "Medical Expert Evidence."

MEDICAL EXPERT EVIDENCE.

Gentlemen of the Maine State Bar Association:

In his eloquent eulogy upon Mr. Justice Story, Daniel Webster apostrophized justice as "the great interest of man on earth." He only expressed the conviction of the thoughtful in all ages. The Hebrew Psalmist's most exalted glorification of God, was that He had made justice and judgment the habitation of His throne. Priests and prophets of all religions, poets and philosophers of all nations, have exhorted rulers and peoples to do justice.

The founders of our own federal and state governments in setting forth the objects of the governments they were founding set justice before tranquility, safety, prosperity and even liberty. "To establish justice" is the first object of government named in the Constitutions of this State and of the United States. This precedence given to justice was not fortuitious but because justice was first in the minds of the framers. In secular affairs, at least, there is nothing better than justice; there is nothing worse than injustice. In the Bill of Rights prefixed to our state constitution it is emphatically declared that "right and justice shall be administered freely and without sale, completely and without denial, promptly and without delay." In proportion as this command is obeyed by the administrators of the government, in that proportion are the people blessed far beyond any blessings of material wealth.

But how to establish this justice so essential, and avoid this injustice so inimical, to human happiness? Good laws alone will not establish justice. Laws are to be applied to facts, and however good the laws, if the facts be not correctly found, injustice must result. Jurisprudence is not an abstract science. It deals with concrete facts and, like similar sciences, it must have its data accurate. As an error in observation, or calculation, may vitiate the conclusions of even the most exact sciences, so an error in a single fact may make unjust the most elaborate judicial judgment.

Judgments to be just must be based not only on correct reasoning but also and ultimately upon the truth in fact. To ascertain this truth, the truth in fact, is the first and principal labor in judicial proceedings. By far the greater part of the time of our sessions of court is occupied in trials for the ascertainment of facts. To get at these unerringly, to thus obtain a sure foundation for the superstructure of legal reasoning and judgment, is the great task of the judiciary and the legal profession. This task all judges and lawyers will agree is quite appalling in its difficulty.

Our early predecessors fairly quailed before this difficulty in their day, when scarcely any credence was given to human testimony. At one time they put the whole labor and responsibility on the witnesses themselves, who were the first jurors. It was for the witnesses to adjudge what was true. After the segregation of jurors from witnesses, the courts still sought to put off the responsibility of decision. They devised compurgation, the ordeal, the wager of battle and other devices for having the questions of fact determined in some other

way than by their own judgment. They affected to believe, and probably brought themselves to believe, that through these devices the Deity declared the facts for them. Even questions of law were sometimes left to be determined in the same way. A Saxon chronicler relates that in the tenth century, under the Saxon King Otto, the question arose whether the children of a deceased parent could inherit from their grandfather equally with their uncles. It was proposed to submit the question to the popular assembly, but the King decided to obtain the opinion of Deity through the wager of battle. The champion for the children overthrew the champion of the uncles, and the right of the children was established.

The trouble was, that courts and law-makers in those days had little or no confidence in human reason, or human testimony. They invoked the Deity in these various crude ways as the only sure informant. In time, however, it came to be realized that it was quite doubtful what response was made to these invocations, or whether any response at all was made. These means having thus fallen into disrepute, the courts were compelled in many cases to resort to the testimony of witnesses, but they did so reluctantly and distrustfully. For a long time, almost down to our day, the parties to the suit, the very persons who knew best what was said or done, would not be heard. Also the slightest pecuniary interest in the result of a trial was assumed to render a witness unworthy of belief. Persons once convicted of any offense however trivial, and however fully expiated, were rigorously excluded from the witness stand. Persons of different religious opinions from those of the

court would not be heard. Worst of all, the accused in a criminal proceeding was refused the opportunity of giving his own testimony.

In our own time it has become apparent that no source of information should be ignored if the truth is to be ascertained. Now all sources are available to the parties and the courts. Evidence of any kind, from any source and through any medium, is admissible if it be primary, relevant and probative. The only safeguards now are in the exclusion of hearsay evidence, of secondary evidence when the primary is attainable, and in a wide latitude of cross-examination. These radical changes in the rules of evidence have immensely increased the labor and responsibility of judicial tribunals and trial lawyers. True, the more numerous the data, the better the opportunity for correct conclusions, but the greater the labor. The more numerous and different in character the sources and media of evidence, the more conflicting and even doubtful the evidence may be, and the task of extracting the truth correspondingly more difficult. At times I have envied the early judges who could allow the compurgation, or send the parties to the ordeal or wager of battle, and thus avoid the labor and responsibility of decision.

Superadded to the labors, difficulties and responsibilities of the tribunals and lawyers of this day, is the subject of this paper, medical expert evidence, the most confusing of all. No judge, no juror but bewails the necessity of judging such evidence. No lawyer but feels afflicted with fatigue as he thinks of it.

The first expert or opinion received was that of physicians, and it was at first heard only by the judge for his own enlightenment, and his conclusions only were given to the jury. Thus as late as 1619, in an ejectment

case turning upon the legitimacy of a posthumous child, the judge after hearing two "doctors of physic" charged the jury that a child born forty weeks and more after the death of the husband might well be his child. Such evidence does not appear to have been submitted to the jury until 1665 when at a trial for witchcraft at Bury St. Edmunds Dr. Thomas Browne, after viewing the respondents, was permitted to give directly to the jury his opinion that the respondents were witches. Since that date expert evidence appears to have been given directly to the jury for them to consider and pass upon.

I do not find in the books, either of law or medicine, that expert evidence has been much praised or welcomed. It seems rather to have been regarded as a necessary evil to be tolerated because nothing better can be had. In Honigan's case (29 Mich. 4) the court said: "The experience of courts with the testimony of experts has not been such as to impress them with the conviction that the scope of such proofs should be extended. Such testimony is not desirable in any case when the jury can get along without it." In *Clark v. The State*, 12 Ohio 483, the court, after quoting a disparaging remark by Sir John Nicoll, said "Whenever they (the physicians) have enlisted on the side of either party, or of some favorite theory, the difficulties are greatly multiplied, and however honest or renowned for professional character the witnesses may be, such will be the conflict of their testimony in nine cases out of ten, that it will be utterly unsafe for a jury or court to follow or adopt the conclusions of either side." In *Winans v. Railroad Co.* 21 How. 101, the United States Supreme Court said: "Experience has shown that opposite opinions of persons professing to be experts

may be obtained to any amount." In Best on Evidence Sec. 514, it is said: "There can be no doubt that testimony is daily received in our courts as scientific evidence to which it is almost profanation to apply the term." Finally hear the drastic comment of our own court in *State v. Walton.* 65 Me. 74. In speaking of the rule excluding mere opinion evidence, the court said: "Anyone who has listened to 'the vain babblings and oppositions of science falsely so called', which swell the record of the testimony of experts, when the hopes of a party depend rather upon mystification than enlightenment, will see the wisdom of the rule." But unfavorable comments are not confined to judges and lawyers. Physicians and medical societies have often and publicly bemoaned the quality of much of the medical evidence given in court, and have desired and sought its improvement.

In what I say of the causes of this infirmity of medical evidence which makes it so often unsatisfactory, I believe I have the concurrence of many eminent physicians. At the outset I ought frankly to concede what they claim that one cause is ignorance of medical science on the part of judges and examining counsel. To be a good judge or a good trial lawyer, one should have some previous knowledge of the nature of the subject matter under investigation. If we in our profession would learn more of the general science of medicine, the more easily we could extract medical facts from medical witnesses. Eminent physicians have told me it is very difficult for them to state medical facts clearly in answer to questions propounded by uninformed lawyers, and sometimes by uninformed judges. They complain that they are often not allowed to complete their answers, that they are not allowed to use illustrations of their own choice, that their

attempted expositions of apposite medical truths are often spoiled by confusing interruptions and objections. They urge that in stating medical truths they should not be laced as straight as the ordinary witness who is confined to visible or audible facts, but should be allowed something of the freedom of the classroom where they give instruction. They say they do not object to being hackled in cross-examination and made to meet criticism and defend their statements, but they do insist, that like the candidate on the hustings, they be allowed full answers.

I think these complaints are to some extent well founded and if courts and counsel will give medical witnesses more protection from interruption, and better opportunity to complete their answers, their testimony will give more light.

Another cause is inherent and cannot be at once removed by any action of ours. Medicine is not yet an exact science. Its absolute truths are few. Many dogmas it today believes and gives out as medical truths are really only theories or doctrines which may be abandoned tomorrow. A brief study of the history of medicine will reveal numerous revolutions in its theory and practice. An eminent Philadelphia physician, Dr. Donaldson, desired to be excused from testifying in the Wharton homicide case on the ground that any statement he could make as to the medical part of the case might within thirty years be shown to be entirely erroneous. The distinguished English physician, John Hunter, for the same reason would never venture a statement beyond his own personal observations. The only safeguard against this infirmity is for the medical witness to frankly avow its existence, and for the tribunals to recognize it and base

their judgments as little as possible on what are simply the theories and doctrines of the day.

Another cause is the natural zeal of the medical witness to magnify his profession and show his learning. This zeal is most exhibited by the younger members of the profession fresh from the schools and exuberant in their self confidence. They welcome medical problems and are quick to offer solutions. In this respect they are not unlike many young lawyers. The result is, they often state as medical truths their mere personal theories or opinions, instead of confining themselves to those tested and approved by the body of their profession. These witnesses, while fondly believing they are giving much light and aiding the courts in their search for truth, too often lead them astray.

A kindred cause is the fear of many medical witnesses that they will lose consideration if they frankly confess they do not know what is the truth of the matter. This is also a weakness of the younger physicians. They are called perhaps for the first time. They testify perhaps in the presence of a large and attentive audience. They feel that their own reputation is involved. They desire to be thought learned and competent. Knowing the judge, jury and audience to be laymen, ignorant of much of their science, they are tempted to incur the risk of misstatement rather than frankly confess their ignorance.

Another cause is that too many physicians summoned as medical witnesses rely too much on their general learning and experience, and testify without making any special investigation of the precise matters in controversy. So testifying they are often confronted with phases and questions for which they have no safe

answer. In this respect, also, physicians have plenty of company in those lawyers who make little or no special preparation for any case, but rely on their general learning which too often is found to be insufficient. If physicians, when summoned, would ascertain as they easily may, what medical questions are involved, and then make a special study of them and confine themselves to what they find to be accepted and established as medical truths, much of the uncertainty of medical evidence would be eliminated.

Other causes are found in the personal temperament or mental constitution, of the medical witness, a factor that greatly affects all testimony from witnesses. The calm, deliberate, unbiased, clear minded, clear speaking witness is undoubtedly less rare among medical witnesses than among other witnesses, but the lack of these qualities in the medical witness is more grievous. A stupid, a rambling, a vain, a confused witness can after all make tolerably clear with the aid of counsel what he did see or did hear, but a similar person testifying as a medical witness is hopeless. No skill of counsel can make his testimony clear or effective. The only cure is to refuse to call such persons as medical witnesses. A mode of effecting this will be suggested later in this paper.

Another cause is the much debated hypothetical question. Physicians have told me they dislike to answer such a question since the question rarely states a case sufficiently clear for them to answer correctly. Often, enough data are not given upon which to base a professional opinion. Often, the data given are conflicting and even impossible, presenting cases never met with in medical experience. In fine the hypothetical question rarely

presents the case as it is, and answers confined to it are therefore misleading. So convinced am I of the justice of this complaint, that I have never required an answer to a hypothetical question but have left it to the medical witness to answer or not as he pleased.

Analogous to the practice of putting hypothetical questions is the growing practice of having physicians attend constantly while evidence is being taken out, and then asking them what is their professional opinion upon all the evidence thus heard by them. This practice is undoubtedly easy for the lawyer and easy for the physicians, but I venture to say the answers to such questions have in fact little weight with court and jury, and indeed should not have much weight. Granting that the physician's answer is honest and based on the evidence as he remembers or understands it, the tribunal has no assurance that he remembers or understands it correctly. If the phy cians be dishonest or heedless he can conceal his errors in his misunderstanding of the evidence.

But the most prolific cause of the disrepute in which medical evidence is held, is the partizanship excited in, and displayed by medical witnesses. At one time, I hope not now, it was not unusual to give physicians retainers as medical witnesses. I was once local counsel for a defendant in a personal injury suit and was severely blamed for not getting ahead of the plaintiff in retaining local physicians. Of course the testimony of a physician testifying under a retainer cannot be trustworthy or satisfactory. I do not include in this condemnation physicians who are permanently employed by railroad companies and others to examine and report upon the real conditions of injured persons. In such case the employment is for advice and not for testimony.

But apart from these extreme cases of retainer, partizanship is easily excited in physicians as well as in other witnesses. The physician who has attended a plaintiff, or is his family physician and is called by him as a medical witness, naturally has the desire that his patient may win his suit. The physician called for the defendant, and thus arrayed against the plaintiff's physician, naturally shares the defendant's desire to win. If these two conflict in their testimony each becomes a zealous partizan not only for the party calling him but for his own theory. If more than one physician is called upon a side, then parties are formed, and each physician feels the desire to back up his own party.

This partizanship is acknowledged and deprecated by physicians. Do what they will to divest themselves of it, they feel its force. At a session of the Maine Medical Association a few years ago this subject of medical expert evidence was considered. This ingrain evil of partizanship was brought out in discussion. One well known physician stated an illustrative incident occuring at a trial in which he was a medical witness. After describing and lamenting the partizanship displayed by the medical witnesses on the other side he unconsciously closed with the illuminating remark "but our side won the case."

This tendency to partizanship is aggravated by two practices. One is the extra and often large compensation paid medical witnesses. The greater the fees paid, the greater the desire to be called as a witness and the greater the desire to justify the expenditure incurred in calling him. I am assured by physicians, as well as by lawyers, that cases are known where physicians have hinted that they could testify favorably for one side or the other. I

believe these cases are very rare, but still large fees to be obtained are a temptation in all professions. The temptation may be small, or nil, to the distinguished and wealthy, but perhaps too great for the less fortunate. If it be said that without paying large fees the better physicians cannot be obtained, I suggest that the best physicians must obey the court's subpoena to appear and testify for the statutory fees. If it be further said they cannot be compelled to give out their learning acquired by years of study and observation, I suggest that the courts are entitled to all that any witness knows upon any question involved in a trial, however he acquired his knowledge. It may be that no witness, expert or ordinary, can be compelled to acquire knowledge but I know of no law in this state permitting any witness to withhold from the courts his knowledge already acquired, except of course that acquired by a lawyer from his client. If it be urged that it is a hardship to take a physician away from a profitable practice for the per diem of an ordinary witness, I suggest that his hardship is no greater than that of other men whose time is valuable and whose attendance entails loss.

I see no reason for exempting physicians from the common duty of all persons, rich or poor, busy or idle, educated or not, to appear and testify in courts of justice. The poorest litigant may need the testimony of experts as vitally as the most wealthy. He should have the right to compel it as much and on the same terms as any other testimony. To permit a physician to refuse to give medical testimony unless paid according to his own estimate of his value may be to deny justice to those most hurt by injustice.

The other practice tending to intensify partizanship is that of the same physician acting as witness and also as tutor or adviser to the party or attorney calling him. The court has recognised that even the most highminded lawyer engaged in the trial of a case ought not to be both attorney and witness, and has laid down the general rule that he shall not. Equally the physician should not be both witness and adviser. His zeal as tutor is too likely to color his testimony as witness. It is an unpleasant spectacle to see the physician coaching the examining attorney and then passing to the witness stand. Testimony so given is unsatisfactory and of little weight.

But I have dwelt long enough on the unpleasant features of medical evidence. I should not be understood as belittling it. It is not in itself an evil. It has imperfections some of which I have tried to point out. With these removed, it would be almost wholly good. Often, it, and it alone, can show us the truth necessary for just judgment. Guilty men, whose guilt was otherwise unprovable, have been convicted by it. Innocent men have been rescued by it from what otherwise seemed circumstances conclusive of guilt. In many affairs of life it has been, and will be, the determinative solvent. Its statements, when given by honorable, intelligent physicians free from partizanship and other unfavorable conditions, are deserving of credit from us. It is not for us laymen to say they are absurd. When the famous engineer Stephenson testified before a parliamentary committee that in the not distant future, railroad trains would attain a speed of fifteen miles an hour he only excited laughter and was hastily told to stand down by the party calling him. Dr. Jenner of vaccination fame was covered with

ridicule when he promulgated what is now received as truth. In these days of wonders in medical science we should not wag our heads when learned physicians state as medical truths what may seem to us in our ignorance strange and improbable.

The subject, however, must not be left here. The point is how can we remove or lessen the imperfections, and make more effective the good, of medical expert testimony? Much must be left to the members of the medical profession. They can, through their medical associations and by individual precept and example inculcate a higher sense of duty to state only the established truths of the science fairly and correctly. I am glad to say they are awake to the need of improvement and are doing much towards it. In most places in Europe, and in many places in this country, it is becoming the practice for physicians summoned in a case, by whichever side, to confer together before testifying, in order to arrive at a better understanding as to what the medical truth is. In the medical schools more instruction is being provided for upon the subject of giving medical evidence. Through the efforts of the medical profession the quality of medical expert evidence is being perceptibly improved.

But the medical profession cannot do everything. They may improve, and are improving the witnesses, but they cannot improve the system. That is our work and in conclusion of this paper I wish to make a few suggestions as to what we can do.

If we would keep ourselves well informed of the general facts of anatomy, physiology and therapeutics, and also of the new discoveries and theories of medical science, we would undoubtedly have less difficulty in examining and understanding the medical witness. With

that knowledge we could encourage the honest, but slow, witness, and expose the vain and dishonest. If we ourselves would acquire more knowledge; would take more pains to draw out medical evidence clearly and accurately; would treat the medical witness fairly; would refrain from incomplete and contradictory hypothetical questions; would allow him reasonable limits in which to make clear his meanings; would refuse to let him act as coach; would frown upon any exhibition of partizanship; would make him understand that he is to be a witness only, and as to the truth only, would make him realize by vigorous cross-examination that he must be nothing else in the case, I think we would on our part contribute much to the desired improvement.

I think much may also be accomplished by legislation, but here caution is necessary lest the rights of litigants to produce any relevant testimony, however unsatisfactory, be infringed. It seems to me, however, that one legislative step might be taken safely and with good results. We have long had in the case of disputed boundaries or titles, a statutory provision for the appointment by the court of a surveyor to run lines, observe various artificial and natural objects, and make memoranda and plans as desired by either party, or by himself. After he has done this, either party may call him to the witness stand, or may ignore him and call other surveyors. This statute has worked well. The court surveyor is nearly always called to the stand, and it is very seldom that other surveyors are called. His testimony is usually satisfactory and sufficient, and thus much time and expense are saved with results as accurate as with a multitude of surveyors.

If now we provide by legislation that in any case in which medical questions may arise requiring medical expert testimony for their correct solution, the court, or a justice thereof, may designate one or more physicians to make such examinations as either party desires, and such as the physicians desire, and to make notes and special study thereof preparatory to giving evidence, do we go any farther than we have safely gone in the other case? We abridge no rights of the parties. We leave them free to call the court physicians or not call him, and also free to call other physicians. In practice, however, the court physician would be called by one side or the other. But he would testify more as the friend of the court than as a witness for a party, would owe nothing to the party and would have the more weight accordingly.

Under such a statute we should be measurably sure of at least one learned, competent, clear minded and clear speaking,and unbiased witness. He would be selected because of the confidence of the court and the parties in his integrity, learning and skill and in his ability to make clear statements. It would be an appointment of honor stimulating him to deserve it by his faithfulness. He would know that he would be subject to vigorous cross-examination, and that he might be confronted with other physicians. He would feel, however, as the court's appointee, a sense of responsibility to the court rather than to the party calling him. He would be stimulated to make deeper study and investigation; to form his opinions carefully and conservatively, to state them clearly and accurately. He would be largely free from any sympathy with either party and from any sense of obligation to him. I believe that in a short time under

such a statute few physicians, other than the court physicians, would be called, and if any, only the best, because of the greater weight that would be given to the evidence of those appointed by the court over those chosen by the party. Great saving in the length and expense of trials would follow.

I would add that I think the compensation of such appointees could properly be made out of the public treasury like that of stenographers, auditors, &c. The greater economy of time and of court expenses would warrant this; but I would specially urge it for the further reason that payment from the public treasury would remove the greatest incentive to partizanship. If the physician is selected by the court, and paid from the public treasury, he has little or no motive to so shape his testimony as to favor either party. He would be as unbiased as any court officer.

At present this is all the legislation I would urge, but I do urge this much. Further legislation may be advisable hereafter.

Gentlemen of the Maine Bar Association: in his Essay on Character, Emerson said: "Truth is the summit of being; justice is the application of it to affairs." Upon our profession is the duty of discovering and thus applying the truth. It is charged against us that, despite our professional pride, we are not improving law and procedure as we should, that we are far behind other professions and guilds in advancement. We should not flatter ourselves there is nothing more to do. Law and procedure are still imperfect. We should continually strive to improve them. The people look to us for this improvement. Upon us is the duty to devise still better

methods of establishing truth and justice. Because of this duty I have prepared and read this paper. To fail in this duty is to be recreant to our profession, a profession which claims to be in the words of the great French Chancellor D'Augesseau "an order as ancient as magistracy, as necessary as justice, as honorable as honor."

On motion of Orville D. Baker, voted, that the thanks of the Association be extended to Justice Emery for his able and thoughtful address, and that the same be printed in the report of the proceedings.

Mr. Oscar F. Fellows, from the Committee on nomination, made the following report, which was accepted, and the following officers were unanimously elected by ballot.

OFFICERS FOR 1905-1906.

President.

Orville D. Baker, - - -	Augusta.

Vice-Presidents.

L. B. Deasy, - - - -	Bar Harbor.
George C. Wing, - - -	Auburn.
Frederick H. Appleton, - -	Bangor.

Secretary and Treasurer.

Leslie C. Cornish, - - -	Augusta.

Executive Committee.

W. H. Newell, - - -	Lewiston.
Chas. S. Cook, - - -	Portland.
O. F. Fellows, - - -	Bucksport.
John W. Manson, - - -	Pittsfield.
Jos. E. Moore, - - -	Thomaston.

Committee on Membership.

Reuel W. Smith, - - -	Auburn.
Beecher Putnam, - - -	Houlton.
Morrill N. Drew, - - -	Portland.
Cyrus N. Blanchard, - -	Wilton.
B. E. Tracy, - - - -	Winter Harbor.
James E. Rhodes, 2d, - -	Rockland.
Joseph Williamson, - -	Augusta.
Emerson Hilton, - - -	Wiscasset.
A. E. Herrick, - - -	Bethel.
M. Laughlin, - - - -	Bangor.
Frank E. Guernsey, - -	Dover.
W. T. Hall, Jr., - - -	Bath.
C. O. Small, - - - -	Madison.
R. F. Dunton, - - -	Belfast.
F. I. Campbell, - - -	Cherryfield.
George A. Goodwin, - -	Springvale.

Committee on Law Reform.

Charles F. Libby, - - -	Portland.
John A. Morrill, - - -	Auburn.
Chas. F. Woodard, - -	Bangor.
Leroy T. Carleton, - - -	Winthrop.
E. N. Merrill, - - -	Skowhegan.

Committee on Legal History.

J. L. Reade, - - - -	Lewiston.
Ira G. Hersey, - - -	Houlton.
Robert T. Whitehouse, - -	Portland.

S. Clifford Belcher,	Farmington.
A. W. King,	Ellsworth.
Norman L. Bassett,	Augusta.
Arthur S. Littlefield,	Rockland.
William H. Hilton,	Damariscotta.
Ralph T. Parker,	Rumford Falls.
Charles Hamlin,	Bangor.
Henry Hudson,	Guilford.
F. E. Southard,	Bath.
Forrest Goodwin,	Skowhegan.
Ellery Bowden,	Winterport.
L. H. Newcomb,	Eastport.
Fred J. Allen,	Sanford.

Committee on Legal Education.

Tascus Atwood,	Auburn.
R. W. Shaw,	Houlton.
Benjamin Thompson,	Portland.
N. P. Noble,	Phillips.
H. E. Hamlin,	Ellsworth.
Frank G. Farrington,	Augusta.
Reuel Robinson,	Camden.
O. D. Castner,	Waldoboro.
A. S. Kimball,	Norway.
Bertram L. Smith,	Bangor.
W. E. Parsons,	Foxcroft.
Chas. D. Newell,	Richmond.
George G. Weeks,	Fairfield.
Wm. P. Thompson,	Belfast.
Geo. A. Curran,	Calais.
Willis T. Emmons,	Saco.

On motion of Mr. Charles F. Libby, Article 11 of the By-Laws was unanimously amended by striking out in the fourth line thereof, the words "such city in the State and at such hour," and inserting in place thereof the words "such place and time"; so that said Article as amended shall read as follows:—

"ARTICLE 11. MEETINGS."

"The annual meeting of the association shall be held on the second Wednesday of February, at such place in the city of Augusta in the years in which the legislature shall be in session, and in the alternate years at such place and time as the executive committee may determine. Special meetings may be called by the president, on application in writing of five members, ten days' notice of which by mail shall be given to each member by the secretary stating the object of the meeting. Fifteen members shall constitute a quorum at any meeting."

VOTED: That the executive committee be requested to consider the advisability of holding the annual meeting for 1906 during the summer season.

VOTED: To adjourn, to meet at the Hotel North at 8.30 P. M., at which hour the annual dinner was served.

Adjourned.

A true record.

ATTEST,

LESLIE C. CORNISH, Secretary.

AMENDED BY-LAWS

OF THE

MAINE STATE BAR ASSOCIATION.

ARTICLE 1. MEMBERSHIP.

Members of the Bar in this State, shall be eligible to membership and shall be elected at any legal meeting, upon the nomination of the committee on membership.

ARTICLE 2. OFFICERS.

The officers of this association shall be a president, three vice-presidents, an executive committee, a committee on law reform, a committee on legal education and admission to the bar, a committee on legal history, a secretary and a treasurer. All these officers shall be elected by ballot at the annual meeting and shall hold office until others are elected and qualified in their stead.

Other standing committees than those above specified may be provided by the association from time to time as may be found expedient.

Article 3. President.

The president, or in his absence, one of the vice-presidents, shall preside at all meetings of the association. The president shall be, *ex-officio*, a member of the executive committee.

Article 4. Executive Committee.

The executive committee shall consist of four members beside the president. They shall have charge of the affairs of the association, make arrangements for meetings, order the disbursement of the funds of the association, audit its accounts, and have such other powers as may be conferred on them by vote at any meeting of the association.

Article 5. Committee on Law Reform.

The committee on Law Reform shall consist of five members. It shall be the duty of this committee to consider and report to the association such amendments of the law as should in their opinion be adopted; also to scrutinize proposed changes of the law, and when necessary, report upon the same; also to observe the practical working of the judicial system of the State and recommend by written or printed reports, from time to time, any changes therein which experience or observation may suggest.

Article 6. Committee on Legal Education.

The committee on legal education shall consist of one member from each county represented in the association. Its duty shall be to prepare and report a system of legal education and for examination and admission to the practice of the profession in this State, and report from time to time such changes in the system of examination and admission as may be deemed advisable.

Article 7. Committee on Membership.

The committee on membership shall consist of one member from each county represented in the association. All applications for membership shall be made to the member from the county where the applicant resides, if any, otherwise to any member of the committee. Applicants shall be nominated for membership by the concurrence of three members of this committee.

Article 8. Committee on Legal History.

The committee on Legal History shall consist of so many members as the association shall, from year to year, appoint.

Its duty shall be to provide for the preservation in the archives of the society, of the record of such facts relating to the history of the profession as may be of interest, and of suitable written or printed memorials of the lives and characters of distinguished members of the profession.

Article 9. Secretary.

The secretary shall keep the records of the association, have charge of its archives, and discharge such other duties as the association may require.

Article 10. Treasurer.

The treasurer shall collect and receive the dues of the association, keep and by order of the executive committee disburse its funds, and discharge such other duties as may pertain to his office. Any person may fill the office of both secretary and treasurer if elected thereto. A vacancy occurring in either of these offices may be filled by appointment of the executive committee.

Article 11. Meetings.

The annual meeting of the association shall be held on the second Wednesday of February, at such place in the city of Augusta in the years in which the legislature shall be in session, and in the alternate years at such place and time as the executive committee may determine. Special meetings may be called by the president, on application in writing of five members, ten days' notice of which by mail shall be given to each member by the secretary, stating the object of the meeting. Fifteen members shall constitute a quorum at any meeting.

Article 12. Annual Dues.

The annual dues shall be one dollar for each member, payable to the treasurer on or before the first day of June in each year.

Failure to pay the annual due for two years in succession shall terminate the membership of the person in default.

Article 13. Expulsion of Members.

Any member may be expelled for misconduct, professional or otherwise, by a two-thirds vote of the members present at any meeting after proper notice of the charges; and all the interest of any member in the property of the association upon the termination of his membership, by expulsion, resignation or otherwise, shall thereupon vest absolutely in the association.

Article 14. Amendments.

These by-laws may be amended only by a two-thirds vote of the members present at an annual meeting of the association.

OFFICERS SINCE ORGANIZATION.

Presidents.

CHARLES F. LIBBY, Portland, 1891 to 1896.

HERBERT M. HEATH, Augusta, 1896 to 1897.

FRANKLIN A. WILSON, Bangor, 1897 to 1898.

CHARLES E. LITTLEFIELD, Rockland, 1898 to 1899.

WALLACE H. WHITE, Lewiston, 1899 to 1902.

JOSEPH W. SYMONDS, Portland, 1902 to 1903.

JOSEPH C. HOLMAN, Farmington, 1903 to 1904.

GEORGE D. BISBEE, Rumford Falls, 1904 to 1905.

ORVILLE D. BAKER, Augusta, 1905 to

Secretary and Treasurer.

LESLIE C. CORNISH, 1891 to

MEMBERS

OF THE

MAINE STATE BAR ASSOCIATION,

1904-1905.

Androscoggin County.

Tascus Atwood,	- - -	Auburn.
W. W. Bolster,	- - -	Auburn.
D. J. Callahan,	- - -	Lewiston.
Seth M. Carter,	- - -	Auburn.
J. G. Chabot,	- - -	Lewiston.
W. H. Cornforth,	- - -	Auburn.
Franklin M. Drew,	- -	Lewiston.
Willard F. Estey,	- - -	Lewiston.
S. M. Farnum, Jr.,	- -	Auburn.
P. H. Kelleher,	- - -	Auburn.
Rogers P. Kelley,	- - -	Auburn.
Jesse M. Libby,	- - -	Mechanic Falls.
F. E. Ludden,	- - -	Auburn.
Harry Manser,	- - -	Lewiston.
J. H. Maxwell,	- - -	LivermoreFalls.

George G. McCarthy, - -	Lewiston.
John A. Morrill, - - -	Auburn.
Wm. H. Newell, - - -	Lewiston.
Henry W. Oakes, - - -	Auburn.
James A. Pulsifer, - - -	Auburn.
John L. Reade, - - -	Lewiston.
Herbert C. Royal, - - -	Auburn.
Fred N. Saunders, - - -	Lewiston.
W. B. Skelton, - - -	Lewiston.
Reuel W. Smith, - - -	Auburn.
A. E. Verrill, - - - -	Auburn.
W. H. Watson, - - -	Auburn.
Wallace H. White, - - -	Lewiston.
Wallace H. White, Jr., - -	Lewiston.
George C. Wing, - - -	Auburn.
George C. Wing, Jr., - -	Auburn.
George H. Winn, - -	Lewiston.

Aroostook County.

James Archibald, - - -	Houlton.
Walter Cary, - - - -	Houlton.
Charles F. Daggett, - - -	Presque Isle.
F. G. Dunn, - - - -	Ashland.
Willis B. Hall, - - -	Caribou.
Ira G. Hersey, - - -	Houlton.
E. A. Holmes, - - -	Caribou.
Wallace R. Lumbert, - -	Caribou.
Llewellyn Powers, - - -	Houlton.
Beecher Putnam, - - -	Houlton.
H. W. Safford, - - -	Mars Hill.
R. W. Shaw, - - -	Houlton.
S. S. Thornton, - - -	Ashland.

Cumberland County.

George H. Allan, - - -	Portland.
P. P. Baxter, Jr., - - -	Portland.
Arthur F. Belcher,* - - -	Portland.
George E. Bird, - - -	Portland.
Wilford G. Chapman, - -	Portland.
Frederick V. Chase, - -	Portland.
Albro E. Chase, - - -	Portland.
Nathan Clifford, - - -	Portland.
Charles S. Cook, - - -	Portland.
John H. Dana, - - -	Portland.
Liberty B. Dennett, - -	Portland.
James L. Doolittle, - -	Brunswick.
Morrill N. Drew, - - -	Portland.
Josiah H. Drummond, Jr., -	Portland.
Isaac W. Dyer, - - -	Portland.
John H. Fogg, - - -	Portland.
James C. Fox, - - -	Portland.
M. P. Frank, - - -	Portland.
Eben W. Freeman, - - -	Portland.
Clarence Hale, - - -	Portland.
Frederick Hale, - - -	Portland.
C. A. Hight, - - - -	Portland.
Leroy S. Hight, - - -	Portland.
Wm. M. Ingraham, - -	Portland.
Howard R. Ives, - - -	Portland.
Hiram Knowlton, - - -	Portland.
W. J. Knowlton, - - -	Portland.
Seth L. Larrabee, - - -	Portland.
C. Thornton Libby, - -	Portland.
Charles F. Libby, - - -	Portland.

*Deceased.

George Libby, - - -	Portland.
Ira S. Locke, - - -	Portland.
Jos. A. Locke,* - - -	Portland.
Wm. H. Looney, - - -	Portland.
John J. Lynch, - - -	Portland.
Chas. P. Mattocks, - -	Portland.
John F. A. Merrill, - -	Portland.
Carroll W. Morrill, - - -	Portland.
Wm. H. Motley, - - -	Woodfords.
Augustus F. Moulton, - -	Portland.
David E. Moulton, - - -	Portland.
George F. Noyes, - - -	Portland.
Irving W. Parker, - - -	Portland.
James R. Parsons, - - -	Portland.
Franklin C. Payson, - -	Portland.
B. S. Peacock, - - -	Freeport.
Barrett Potter, - - -	Brunswick.
Wm. L. Putnam, - - -	Portland.
Edward M. Rand, - - -	Portland.
Edward C. Reynolds, - -	Portland.
F. W. Robinson, - - -	Portland.
J. H. Rousseau, - - -	Brunswick.
Clarence E. Sawyer, - -	Brunswick.
George M. Seiders, - -	Portland.
David W. Snow, - - -	Portland.
H. W. Swasey, - - -	Portland.
Joseph W. Symonds, - -	Portland.
Benj. Thompson, - - -	Portland.
Edward F. Tompson, - -	Portland.
Levi Turner, - - - -	Portland.
H. M. Verrill, - - -	Portland.

*Deceased.

Harry R. Virgin, - - -	Portland.
Augustus H. Walker, - -	Bridgton.
F. S. Waterhouse, - - -	Limerick.
John A. Waterman, - -	Gorham.
Lindley M. Webb, - - -	Portland.
Richard Webb, - - -	Portland.
John Wells, - - - -	Portland.
John S. White, - - -	Naples.
Robert T. Whitehouse, - -	Portland.
Virgil C. Wilson, - - -	Portland.
Albert S. Woodman, - -	Portland.
Edward Woodman, - -	Portland.

Franklin County.

Harry F. Beedy, - - -	Phillips.
S. Clifford Belcher, - -	Farmington.
Cyrus N. Blanchard, - -	Wilton.
Frank W. Butler, - - -	Farmington.
A. F. Fenderson, - - -	Farmington.
E. O. Greenleaf, - - -	Farmington.
Joseph C. Holman, - -	Farmington.
N. P. Noble, - - -	Phillips.
Elmer E. Richards, - -	Farmington.
Philip H. Stubbs, - - -	Strong.
Josiah H. Thompson, - -	Farmington.
F. E. Timberlake, - - -	Phillips.

Hancock County.

Wm. O. Buck, - - -	Bucksport.
F. Carroll Burrill, - - -	Ellsworth.
B. E. Clark, - - - -	Bar Harbor.

Edward S. Clark,	Bar Harbor.
O. P. Cunningham,	Bucksport.
L. B. Deasy,	Bar Harbor.
O. F. Fellows,	Bucksport.
Geo. R. Fuller,	S. W. Harbor.
L. F. Giles,	Ellsworth.
Hannibal E. Hamlin,	Ellsworth.
A. W. King,	Ellsworth.
John A. Peters,	Ellsworth.
E. P. Spofford,	Deer Isle.
B. E. Tracy,	Winter Harbor.
Geo. M. Warren,	Castine.
Chas. H. Wood,	Bar Harbor.

Kennebec County.

E. C. Ambrose,	Readfield.
Charles L. Andrews,	Augusta.
Orville D. Baker,	Augusta.
Norman L. Bassett,	Augusta.
Emery O. Beane,*	Readfield.
Geo. K. Boutelle,	Waterville.
F. E. Brown,	Waterville.
Simon S. Brown,	Waterville.
Lewis A. Burleigh,	Augusta.
Leroy T. Carleton,	Winthrop.
Leonard D. Carver,	Augusta.
F. W. Clair,	Waterville.
Leslie C. Cornish,	Augusta.
Harvey D. Eaton,	Waterville.
Frank G. Farrington,	Augusta.

*Deceased.

Geo. W. Field, - - -	Oakland.
W. H. Fisher, - - -	Augusta.
Eugene S. Fogg,* - - -	Augusta.
Dana P. Foster, - - -	Waterville.
H. E. Foster, - - - -	Winthrop.
A. M. Goddard, - - -	Augusta.
Wm. T. Haines, - - -	Waterville.
Herbert M. Heath, - - -	Augusta.
Geo. W. Heselton, - -	Gardiner.
Melvin S. Holway, - -	Augusta.
C. F. Johnson, - - -	Waterville.
Treby Johnson, - - -	Augusta.
Samuel W. Lane, - - -	Augusta.
Thomas Leigh, - - -	Augusta.
Thomas J. Lynch, - - -	Augusta.
Joseph H. Manley,* - -	Augusta.
Benedict F. Maher, - -	Augusta.
W. L. McFadden, - - -	Augusta.
Arthur L. Perry, - - -	Gardiner.
Warren C. Philbrook, - -	Waterville.
F. K. Shaw, - - - -	Waterville.
G. T. Stevens, - - -	Augusta.
Asbury C. Stilphen, - -	Gardiner.
Lendall Titcomb, - - -	Augusta.
Henry S. Webster, - - -	Gardiner.
Joseph Williamson, - -	Augusta.

Knox County.

Alex. A. Beaton, - - -	Rockland.
Edw. K. Gould, - - -	Rockland.

*Deceased.

Frank H. Ingraham, - -	Rockland.
Arthur S. Littlefield, - -	Rockland.
Charles E. Littlefield, - -	Rockland.
J. H. Montgomery, - - -	Camden.
Jos. E. Moore, - - -	Thomaston.
David N. Mortland, - -	Rockland.
James E. Rhodes, 2d., - -	Rockland.
Reuel Robinson, - - -	Camden.
L. M. Staples, - - -	Washington.
Frederick S. Walls, - -	Vinal Haven.

Lincoln County.

Ozro D. Castner, - - -	Waldoboro.
Everet Farrington, - -	Waldoboro.
Emerson Hilton, - - -	Wiscasset.
Wm. H. Hilton, - - -	Damariscotta.

Oxford County.

George D. Bisbee, - - -	Rumford Falls.
P. C. Fickett, - - - -	West Paris.
Seth W. Fife, - - -	Fryeburg.
A. E. Herrick, - - -	Bethel.
Alfred S. Kimball, - - -	Norway.
Charles A. Mendall, - -	Canton.
Ralph T. Parker, - - -	Rumford Falls.
George A. Wilson, - -	South Paris.
J. S. Wright, - - -	South Paris.

Penobscot County.

B. C. Additon, - - -	Bangor.
Frederick H. Appleton, - -	Bangor.

Charles A. Bailey,	Bangor.
Victor Brett,	Bangor.
James H. Burgess,	Bangor.
Hugh R. Chaplin,	Bangor.
W. C. Clark,	Lincoln.
Milton S. Clifford,	Bangor.
Josiah Crosby,*	Dexter.
J. Willis Crosby,	Dexter.
Charles J. Dunn,	Orono.
Bertram L. Fletcher,	Bangor.
P. H. Gillin,	Bangor.
Joseph F. Gould,	Old Town.
Charles Hamlin,	Bangor.
Henry P. Haynes,	East Corinth.
M. Laughlin,	Bangor.
Forrest J. Martin,	Bangor.
John R. Mason,	Bangor.
Alanson J. Merrill,	Bangor.
Henry L. Mitchell,	Bangor.
F. H. Parkhurst,	Bangor.
H. H. Patten,	Bangor.
Wm. B. Peirce,	Bangor.
T. H. B. Pierce,	Dexter.
J. T. Plummer,	Dexter.
W. H. Powell,	Old Town.
Allen E. Rogers,	Orono.
Erastus C. Ryder,	Bangor.
James M. Sanborn,	Newport.
Clarence Scott,	Old Town.
George T. Sewall,	Old Town.
Bertram L. Smith,	Patten.
Ruel Smith,	Bangor.

*Deceased.

Thos. W. Vose, - - -	Bangor.
Peregrine White, - - -	Bangor.
F. J. Whiting, - - -	Old Town.
Franklin A. Wilson, - -	Bangor.
Charles F. Woodard, - -	Bangor.

Piscataquis County.

Calvin W. Brown, - - -	Dover.
M. L. Durgin, - - -	Milo.
Frank E. Guernsey, - -	Dover.
Henry Hudson, - - -	Guilford.
James H. Hudson, - - -	Guilford.
Willis E. Parsons, - -	Foxcroft.
Joseph B. Peaks, - - -	Dover.
John F. Sprague, - - -	Monson.

Sagadahoc County.

Arthur J. Dunton, - - -	Bath.
Sanford L. Fogg, - - -	Bath.
Wm. T. Hall, - - -	Richmond.
Wm. T. Hall, Jr., - -	Bath.
George E. Hughes, - -	Bath.
Charles W. Larrabee,* - -	Bath.
Charles D. Newell, - -	Richmond.
Frank E. Southard, - -	Bath.
Franklin P. Sprague, - -	Bath.
Frank L. Staples, - - -	Bath.
Joseph M. Trott, - - -	Bath.

*Deceased.

Somerset County.

Turner Buswell, - - -	Solon.
George M. Chapman, - -	Fairfield.
Abel Davis, - - - -	Pittsfield.
Bernard Gibbs, - - -	Madison.
Forrest Goodwin, - - -	Skowhegan.
George W. Gower, - -	Skowhegan.
Daniel Lewis, - - -	Skowhegan.
John W. Manson, - - -	Pittsfield.
E. N. Merrill, - - -	Skowhegan.
Augustine Simmons, - -	No. Anson.
C. O. Small, - - - -	Madison.
Daniel Steward, - - -	No. Anson.
L. L. Walton, - - -	Skowhegan.
George G. Weeks, - - -	Fairfield.

Waldo County.

Ellery Bowden, - - -	Winterport.
Fred W. Brown, - - -	Belfast.
R. F. Dunton, - - -	Belfast.
George E. Johnson, - -	Belfast.
Arthur Ritchie, - - -	Liberty.
Wm. P. Thompson, - -	Belfast.

Washington County.

James M. Beckett, - -	Calais.
F. I. Campbell, - - -	Cherryfield.
George A. Curran, - -	Calais.
Clement B. Donworth, - -	Machias.

George R. Gardner,	Calais.
H. H. Gray,	Milbridge.
F. B. Livingstone,	Calais.
J. H. McFaul,	Eastport.
I. G. McLarren,	Eastport.
B. B. Murray,	Calais.
L. H. Newcomb,	Eastport.
B. Rogers,	Pembroke.

York County.

Fred J. Allen,	Sanford.
Horace H. Burbank,*	Saco.
John B. Donovan,	Alfred.
Walter H. Downs,	So. Berwick.
George A. Emery,	Saco.
Geo. D. Emery,	E. Lebanon.
Willis T. Emmons,	Saco.
Hampden Fairfield,	Saco.
George A. Goodwin,	Springvale.
John M. Goodwin,	Biddeford.
F. W. Guptill,	Saco.
Frank M. Higgins,	Limerick.
Nathaniel Hobbs,	No. Berwick.
Luther R. Moore,	Saco.
W. P. Perkins,	Cornish.
Charles H. Prescott,	Biddeford.
Moses A. Safford,	Kittery.
John C. Stewart,	York Village.
Edwin Stone,	Biddeford.

*Deceased.